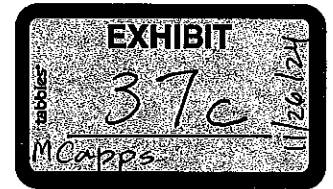


Judicial Issues with the March 9, 2020 Motion to Compel



Canon 1 - A judge shall uphold the integrity and independence of the judiciary.

Canon 2-A judge shall avoid impropriety and the appearance of impropriety in all of the judges activities.

Canon 3-A judge shall perform the duties of judicial office impartially and diligently. (2) A judge shall be faithful to the law and maintain professional competence in it. (4) A judge shall be patient, dignified and courteous to litigants and other with whom the judge deals and shall require similar conduct of lawyers and others subject to the judge's direction and control (5) A judge shall perform judicial duties without bias or prejudice. A judge shall not by words or conduct manifest bias or prejudice. (9) A judge shall not, while a proceeding is pending or impending in any court, make an public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing

* It should be noted that I did not order the transcript for this hearing

Exhibit #18 - Order for Motion to Compel, Notice for Motion to Compel, Defendant's Request for Discovery

Order (Not Ending Action) #2. Any attorney fees relative to this motion shall be held in abeyance at this time

Judge Holmes continued to show her bias, lack of ethics and impropriety by allowing Hal to continue not to abide by the Rules of Court and comply with Rule 20, SCFCR and file a Financial Declaration for this case (or any other case).

Exhibit #18

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE FAMILY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
FILE NO. 2019-DR-26-1437

Joseph Harold Capps, Jr.,)
)
Plaintiff,)
v.)
Michelle Davis Capps,)
)
Defendant.)
_____)

ORDER
(Not Ending Action)

HEARING DATE : MARCH 9, 2020
TRIAL JUDGE : JAN B. BROMELL-HOLMES
PLAINTIFF'S ATTORNEY : ANITA FLOYD LEE
DEFENDANT'S ATTORNEY : JULAAN DERRICK
COURT REPORTER : DCRP

This matter comes before this Court pursuant to Defendant's Notice of Motion and Motion to discovery responses, said motion being filed on December 13, 2019. Counsel for both Parties were present for this hearing, as well as the Defendant. Based upon arguments of counsel, I have determined that the following order should be issued:

1. The Parties shall respond to the other Party's discovery by March 23, 2020.
2. Any attorney's fees relative to this motion shall be held in abeyance at this time.

Therefore, it is **ORDERED** that the Parties shall respond to the other Party's Interrogatories and Request for Production of Documents by March 23, 2020.

It is further **ORDERED** that any violation of this Order may result in a fine of up to \$1,500, 300 hours community service work, and/or one year imprisonment.

AND IT IS SO ORDERED THIS _____ DAY OF APRIL, 2020.

Jan B. Bromell Holmes
JAN B. BROMELL-HOLMES
JUDGE OF THE FAMILY COURT
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Capps vs. Capps
2019-DR-26-1437

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Joseph Harold Capps, Jr.,

Plaintiff,

vs.

Michelle Davis Capps,

Defendant.

IN THE FAMILY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
FILE NO.: 2019-DR-26-1437

**NOTICE OF MOTION AND
MOTION TO COMPEL DISCOVERY
AND MEDICAL RELEASES**

FILED
HORRY COUNTY
DECEMBER 13 PM 3:34
THE HONORABLE
CLARENCE E. MUMFORD
JUDGE OF COURSE
HORRY COUNTY, SC

TO THE PLAINTIFF, ABOVE NAMED: JOSEPH HAROLD CAPPS, JR.;

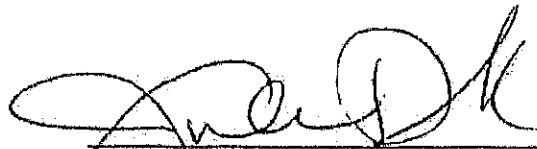
YOU WILL PLEASE TAKE NOTICE that the Defendant above-named, by and through his undersigned attorney, will move before the Family Court in the Horry County Courthouse, Conway, South Carolina, at such time as may be set, for the issuance of the following Order For an Order compelling the Plaintiff, pursuant to Rule 37, *South Carolina Rules of Civil Procedure*, to comply with the Defendant, Michelle Davis Capps, with his Medical Release requests, namely,

The grounds for this Motion being:

A. The Defendant, Michelle Davis Capps, through their attorney, served upon the Plaintiff, through her attorney of record, **Defendants's Interrogatories to Plaintiff** and **Defendant's Request for Production of Documents to Plaintiff** on October 1, 2019 (*See attached Exhibit 1*). Also requested on that day were medical releases for Dr. John E. Rathbun and Dr. James R. Vest.

2. Pursuant to Rule 37, *South Carolina Rules of Civil Procedure* the Defendants requests reasonable attorney's fees and costs for bringing this Motion.

This Motion will be based upon the pleadings herein, applicable South Carolina statutory and case law, and upon such affidavits, depositions, and testimony as may be attached hereto or presented at the hearing on this Motion.



Julaan Derrick
Attorney for the Defendant,
Steven Richard Ingate, Jr.
1422 4th Avenue
Conway, South Carolina 29526

December 13, 2019

JULAAN DERRICK

Attorney at Law
1422 Fourth Avenue
Conway, South Carolina 29526

P.O. Box 286
Conway, SC 29526

(843) 488-0881
Fax: (843) 488-0884
www.jdllaw.com

October 1, 2019

EMAIL AND MAIL

Anita Floyd Lee
Attorney at Law
1115 Third Avenue
Conway, SC 29526

RE: Joseph Harold Capps, Jr. vs. Michelle Davis Capps.
File No. 2019-DR-26-1437

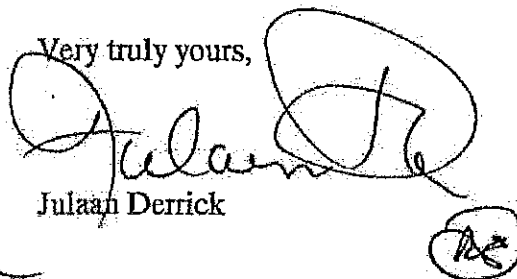
Dear Anita,

Please find enclosed *Defendant's Interrogatories to Plaintiff, Defendant's Request for Production of Documents to Plaintiff*, along with *Affidavit of Mailing*.

Also find enclosed, Medical Releases for Dr. John Rathbun and Dr. James R. Vest.

With kind regards, I am

Very truly yours,


Julaan Derrick

JD/rs
c: Michelle Capps

Exhibit 1

State of South Carolina

County of Horry

Joseph Harold Capps, Jr.,

Plaintiff,

vs.

Michelle Davis Capps,

Defendant.

IN THE FAMILY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
FILE NO. 2019-DR-26-1437

**DEFENDANT'S
REQUEST FOR PRODUCTION
OF DOCUMENTS TO PLAINTIFF**

FILED
HORRY COUNTY
19 DEC 13 PM 3:44
RENEEM ELYS
CLERK OF COURT
HORRY COUNTY, S.C.

TO THE PLAINTIFF ABOVE NAMED, JOSEPH HAROLD CAPPS, JR., AND

TO HIS ATTORNEY, ANITA F. LEE:

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through the undersigned attorney, hereby requests that you produce the documents requested herein below in accordance with the Rules of Practice for the Family Courts, Rule 22, and the South Carolina Rules of Civil Procedure.

1. Any and all documents, photographs, charts, statements, recordings, CD's, correspondence, Affidavits, written statements (whether signed or not) and any and all other demonstrative evidence in the possession of Plaintiff or Plaintiff's counsel which relates to the claim or defense of this action.
2. Your last four (4) pay stubs and/or proof of draws from your business. Further, provide you income tax returns for 2015, 2016, 2017, and 2018.
3. All books, records or other evidence showing any fringe benefits to which you are entitled and which are available to you from any business entity, including without limitation, automobile expenses, travel expenses, personal living and entertainment expenses, life insurance,

bonuses, health, accident and hospitalization insurance.

4. A copy of all records, documents, pictures, plats, video and/or audio recordings, or any other items which pertain to the issues of this case, the Plaintiff intends to introduce at the trial of this case. Further, include all tape recordings of conversations between Plaintiff and children and video/audio recordings from security cameras in his residence where the children are being recorded and/or videotaped. Also, include records from Ring Home Security System where children or 3rd Parties were recorded. These tapes should include any obtained by his wife as well. Further, provide tape recordings and/or video recordings that you client obtained of my client and/or children with 3rd Parties. Also, provide any tape recorded conversations between you and Ken Smith, Hal Heidt, and Harold Brown.

5. Any and all medical records from any medical doctor or mental health professional identified in responses in Interrogatories which you have seen in the last three (3) years.

6. Any and all medical records from any medical doctor or mental health professional identified in responses to Interrogatories which the minor child has seen in the last three (3) years.

7. Printout from any and all pharmacies used to fill all your prescriptions for the last three (3) years.

8. Evidence of any psychological tests that you have taken during the last three (3) years.

9. A financial declaration pursuant to the South Carolina Children Support Guidelines.

10. Copies of any and all written reports of private investigators and computer technicians as well as any recordings, pictures, and CD's in your possession and which you intend to use as evidence at the trial of this case.

11. Provide a copy of any/all financial statements/applications you have submitted to

banks/lending institutions, dealerships, etc. over the past three (3) years.

12. Obtain and produce a copy of your most recent Social Security Statement. In order to fulfill this request, you may log on to the internet website <http://www.ssa.gov/mystatement/> and then click on the link, "Need to request a statement?" and follow the directions.

13. All information regarding any website, blog, and/or Internet page(s) regarding you, which you prepared, or for which you have log-in credentials (including but not limited to any social networking website such as Facebook, Twitter, LinkedIn, Adult Friend Finder or similar sites), provide:

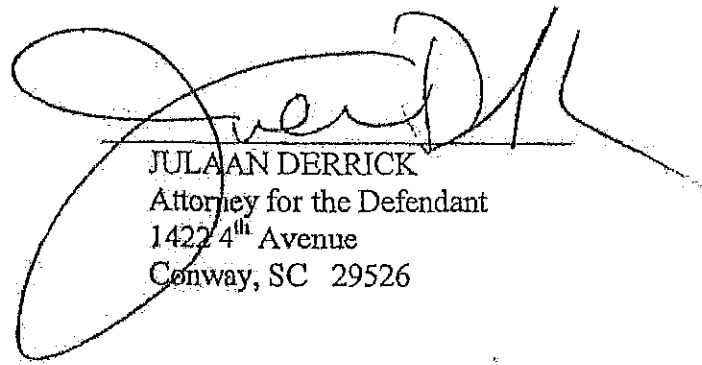
a. A complete copy of such site, blog, and/or page (which can be obtained, for example, by accessing the "Download a copy of your Facebook data" option at www.facebook.com); and

b. Any information necessary to access in-full any such site, blog, or page if same is not fully accessible from the location/address provided. By answering this request, you consent to full access of such site, blog, or page by Defendant's counsel for purposes of this lawsuit.

14. Please provide your phone records for the past year, as well as Emily's phone records.

15. Provide information on the South Carolina Tuition Pre-Payment accounts for your children for the past three (3) years. Please provide a copy of the statements showing the amounts in each child's account.

16. Provide all private investigator reports, tracking information, etc., that you have obtained in regards to surveillance on the Defendant over the past three (3) years.



JULAAAN DERRICK
Attorney for the Defendant
1422 4th Avenue
Conway, SC 29526

October 1, 2019

State of South Carolina

County of Horry

Joseph Harold Capps, Jr.,

Plaintiff,

vs.

Michelle Davis Capps,

Defendant.

IN THE FAMILY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
FILE NO. 2019-DR-26-1437

DEFENDANT'S
INTERROGATORIES
TO PLAINTIFF

FILED
JEROME ELVIS
CLERK OF COURT
HORRY COUNTY, SC

2019 DEC 13 PM 3:34

FILED
HORRY COUNTY

**TO THE PLAINTIFF ABOVE, JOSEPH HAROLD CAPPS, JR., AND HIS
ATTORNEY, ANITA F. LEE:**

YOU WILL PLEASE TAKE NOTICE that you are hereby required to answer in writing, under oath, within thirty (30) days after service hereof upon you, the following

1. Please list the names, addresses and telephone numbers of any persons whom the Plaintiff proposes to call as a witness at the trial of the case. For each witness, please give a brief summary of the testimony that witness is expected to give.
2. Please list the names, addresses and telephone numbers of any expert witnesses whom the Plaintiff proposes to call as a witness at the trial of this case. For each expert witness identified, please give a brief summary of the testimony that expert witness is expected to give and list all correspondence, notes, writings, documents, and other records of any nature or description which you or anyone acting on your behalf has furnished to that expert witness. In addition, please set forth any verbal history, background or other verbal information given to this witness by you or anyone acting on your behalf.

3. Please state your gross and net income as recorded on state and federal income tax returns for the past three (3) years, naming the state(s) where you have filed state income tax returns.
4. List any and all documents, records, reports, diagrams, photographs, video tapes, audio tapes, etc., which relate to this case or that the Plaintiff has in his possession or which the Plaintiff plans to introduce at trial.
5. State your current work schedule.
6. List all health care providers you have seen during the past three (3) years and state particular diagnoses made by such health care providers.
7. List the counselors, psychologists and/or psychiatrists or any other mental health practitioner you have been treated by or met with over the past three (3) years, stating the dates you met with each one. Also provide the name(s), address(es) and phone number(s) of these individuals. List each and every doctor you have seen over the past three (3) years.
8. List each and every prescription drug you have been prescribed during the past three (3) years and each and every prescription drug you are currently taking along with the dosage. Specifically include any and all antidepressants you have been prescribed, stating dosages, and what health care professional prescribed it.
9. List the health care providers the child has seen during the past three (3) years and state the particular diagnoses made by such health care providers. Provide the name(s), address(es), phone number(s) and date(s) the child was seen.
10. List the counselors, psychologists and/or psychiatrists or any other mental health practitioner you have had the child to see or have been treated by over the past three (3) years, stating the dates the child met with each one. Also provide the names, addresses and phone

numbers of these individuals. Further, if the child has been prescribed medicine, list the drug(s) and the dosage(s).

11. List any persons you have the minor child around on a regular basis and state whether or not they have a criminal record. State their full name, address, and date of birth and phone number.

12. State any difficulties your child is having and how you are equipped to deal with these difficulties.

13. Identify any specific occurrences that demonstrate that the best interests of the child would be best served by placement with you. Identify the occurrence by date and describe the occurrence.

14. List each and every financial institution that you have provided a financial statement to over the past three (3) years. Include each bank/financial institution, where you have applied for a note/mortgage in your name or in conjunction with someone else, or name of a LLC in which you are a partner.

15. List any business, dealership, or credit card company where you have provided an income statement.

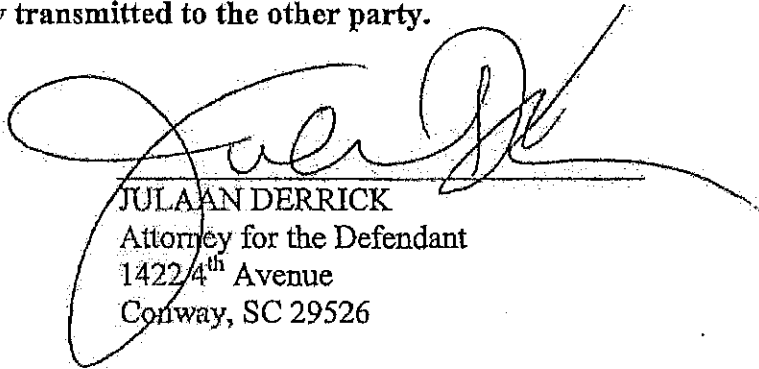
16. List any out-of-town trips you have been on in the last four (4) years. State dates and specific locations and who you were with on such trips.

17. List bank/financial institution where the Plaintiff has "funds for their (children) college tuition", stating the account number and amount of funds in such accounts.

18. List all private investigators hired by you over the past three (3) years, providing phone numbers and address.

These Interrogatories shall be deemed to continue from the time of service, until

the time of trial of the action, so that information sought, which comes to the knowledge of a party, or his representative or attorney, after original Answers to Interrogatories have been submitted, shall be promptly transmitted to the other party.



JULAAN DERRICK
Attorney for the Defendant
1422 4th Avenue
Conway, SC 29526

October 1, 2019

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)
)
Joseph Harold Capps, Jr.,)
Plaintiff,)
)
vs.)
)
Michelle Davis Capps,)
Defendant.)

IN THE FAMILY COURT
FIFTEENTH JUDICIAL CIRCUIT

AFFIDAVIT OF MAILING

Docket No. 2019-DR-26-1437

Personally appeared Rhetta D. Stanley, who states that he served the Plaintiff's counsel with *Defendant's Interrogatories to Plaintiff, Defendant's Request for Production of Documents to Plaintiff, Medical Releases*, along with *Affidavit of Mailing* by mailing:

(Check one)

First class mail and Email

Certified mail

restricted delivery

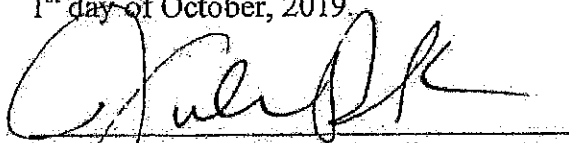
return receipt requested

in the United States Mail, with proper postage attached and receipt attached (if applicable), on October 1, 2019 (date) addressed as follows:

Anita F. Lee
1115 Third Avenue
Conway, SC 29526

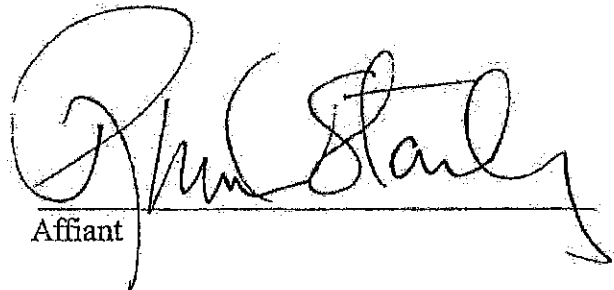
Sworn to before me this

1st day of October, 2019.



Notary Public of South Carolina

My Commission expires: 1/14/2024



Affiant

**AUTHORIZATION AND RELEASE FOR
MEDICAL/PHARMACY/MENTORING/COUNSELING RECORDS**

To: Dr. John E. Rathbun, 997 US-17 Bus., Myrtle Beach, SC 29577

I hereby authorize the designated records custodian for the above-named hospital, institution, form or corporation (the "Provider") to release, upon presentation of this authorization, to Julaan Derrick, Esquire, and any of its agents or designees, copies of any and all recorded information concerning, **JOSEPH HOWARD CAPPS, JR.**, including by way of example, but not limited to the following:

All emergency contacts, familial contact information, medical records, physicians' records, counseling notes and records, recommendations, surgeons' records, echocardiograms, cardiac catheterizations, x-rays, CAT scans, MRI films, photographs, and any other radiological, nuclear medicine, or radiation therapy films, pathology materials, slides, tissues, laboratory reports, discharge summaries, progress notes, consultations, prescriptions, pharmacy records, records of drug abuse and alcohol abuse, HIV/AIDS diagnosis or treatment, physicals and histories, nurses' notes, patient intake forms, correspondence, social worker's records, insurance records, consent for treatment, statements of account, bills, invoices, or any other papers concerning any treatment, examination, periods or stays of hospitalization, confinement, diagnosis or other information pertaining to and concerning **JOSEPH HOWARD CAPPS, JR.**

This release authorizes the Provider to release the entire, unredacted records, pursuant to 45 CFR § 164.508 (HIPPA Authorization Requirements for Release of Protected Health Information), 42 CFR Part 2 (Federal Requirements for Release of Alcohol and/or Drug Abuse Program Records) and 38 CFR Part 1 (Release of HIV/AIDS, Sickle Cell Anemia, Drug Abuse, Alcoholism or Alcohol Abuse Records by the Department of Veteran Affairs (the "VA")).

I understand that these medical records are confidential. I understand that by signing this authorization I am allowing the release of any medical information requested to the agency or person specified above, including any HIV/AIDS and sickle cell anemia diagnosis and treatment records that are specifically protected by the VA and/or state law or regulations. Drug and alcohol abuse information records are specifically protected by federal and/or state regulations and by signing this authorization I am also allowing the release of any drug and/or alcohol information records to the agency or person specified above. I also understand that by signing this authorization I am authorizing the release of pharmacy and prescription information and records that may be specifically protected by state law or regulations.

I understand that I may revoke this authorization at any time as explained by the Provider in its Notice of Privacy Practices, except to the extent that action as already been taken in reliance upon this authorization and release of medical records. I also understand that I have the right to refuse to sign this authorization and release of medical records. You may not condition treatment, payment, enrollment, or eligibility for benefits on whether this authorization is signed. You are hereby released from any and all liability in connection with the disclosure of records, documents, writings and physical evidence to the above firms.

This authorization is continuing in nature and is to be given full force and effect to release any and all of the foregoing information learned or determined after the date hereof until the end of the litigation referenced above. This authorization also includes the authority to copy and inspect any and all such information. A scanned and emailed or fax copy of this authorization may be used in place of and with the same force and effect as the original.

Date: _____

Joseph Harold Capps, Jr.

Social Security Number

Date of Birth

Sworn to before me this
____ day of September, 2019.

Notary Public of South Carolina

Printed Name of Notary:

My Commission expires: _____

**AUTHORIZATION AND RELEASE FOR
MEDICAL/PHARMACY/MENTORING/COUNSELING RECORDS**

To: Dr. James R. Vest: 1413 US-17 Bus., Surfside, SC 29575

I hereby authorize the designated records custodian for the above-named hospital, institution, form or corporation (the "Provider") to release, upon presentation of this authorization, to Juliaan Derrick, Esquire, and any of its agents or designees, copies of any and all recorded information concerning, **JOSEPH HOWARD CAPPS, JR.**, including by way of example, but not limited to the following:

All emergency contacts, familial contact information, medical records, physicians' records, counseling notes and records, recommendations, surgeons' records, echocardiograms, cardiac catheterizations, x-rays, CAT scans, MRI films, photographs, and any other radiological, nuclear medicine, or radiation therapy films, pathology materials, slides, tissues, laboratory reports, discharge summaries, progress notes, consultations, prescriptions, pharmacy records, records of drug abuse and alcohol abuse, HIV/AIDS diagnosis or treatment, physicals and histories, nurses' notes, patient intake forms, correspondence, social worker's records, insurance records, consent for treatment, statements of account, bills, invoices, or any other papers concerning any treatment, examination, periods or stays of hospitalization, confinement, diagnosis or other information pertaining to and concerning **JOSEPH HOWARD CAPPS, JR.**

This release authorizes the Provider to release the entire, unredacted records, pursuant to 45 CFR § 164.508 (HIPPA Authorization Requirements for Release of Protected Health Information), 42 CFR Part 2 (Federal Requirements for Release of Alcohol and/or Drug Abuse Program Records) and 38 CFR Part 1 (Release of HIV/AIDS, Sickle Cell Anemia, Drug Abuse, Alcoholism or Alcohol Abuse Records by the Department of Veteran Affairs (the "VA")).

I understand that these medical records are confidential. I understand that by signing this authorization I am allowing the release of any medical information requested to the agency or person specified above, including any HIV/AIDS and sickle cell anemia diagnosis and treatment records that are specifically protected by the VA and/or state law or regulations. Drug and alcohol abuse information records are specifically protected by federal and/or state regulations and by signing this authorization I am also allowing the release of any drug and/or alcohol information records to the agency or person specified above. I also understand that by signing this authorization I am authorizing the release of pharmacy and prescription information and records that may be specifically protected by state law or regulations.

I understand that I may revoke this authorization at any time as explained by the Provider in its Notice of Privacy Practices, except to the extent that action as already been taken in reliance upon this authorization and release of medical records. I also understand that I have the right to refuse to sign this authorization and release of medical records. You may not condition treatment, payment, enrollment, or eligibility for benefits on whether this authorization is signed. You are hereby released from any and all liability in connection with the disclosure of records, documents, writings and physical evidence to the above firms.

This authorization is continuing in nature and is to be given full force and effect to release any and all of the foregoing information learned or determined after the date hereof until the end of the litigation referenced above. This authorization also includes the authority to copy and inspect any and all such information. A scanned and emailed or fax copy of this authorization may be used in place of and with the same force and effect as the original.

Date: _____

Joseph Harold Capps, Jr.

Social Security Number

Date of Birth

Sworn to before me this

____ day of September, 2019.

Notary Public of South Carolina

Printed Name of Notary:

My Commission expires: _____

JULAAN DERRICK

Attorney at Law

1422 4th Ave.
P.O. Box 286
Conway, SC 29526

(843) 488-0881
Fax: (843) 488-0884
www.jdllaw.com

December 16, 2019

VIA EMAIL ONLY

Anita F. Lee
1115 Third Avenue
Conway, SC 29526

RE: Michelle Davis Capps vs. Joseph Harold Capps
File No. 2014-DR-26-1563

Dear Anita:

Please find enclosed Notice of Motion and Motion to Compel Discovery. Please send me your unavailable dates.

With kind regards, I am

Very truly yours,


Julaan Derrick

JD/rs
Enclosure
c: Michelle Davis Capps (via email)
Heather Cannon

STATE OF SOUTH CAROLINA

COUNTY OF Horry

Joseph Harold Capps, Jr.,

Plaintiff,

vs.

Michelle Davis Capps,

Defendant.

IN THE FAMILY COURT
FIFTEENTH JUDICIAL CIRCUIT

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Docket No. 2019-DR-26-14

FILED
Horry County
2019 DEC 13 PM 3:34
RENEE M. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Plaintiff's Attorney: Julaan Derrik, Bar No. 1653 Address: 1422 4th Ave., Conway, SC 29526 Phone: 843-488-0881 Fax 843-488-0884 E-mail: rnette@jdlaw.com Other:	Defendant's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: Motion to Compel Hearing Estimated Time Needed: 30 mins. Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	Date submitted: December 13, 2019
SECTION III: Motion Fee	
<input type="checkbox"/> PAID - AMOUNT: \$ _____ <input type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	JUDGE CODE _____ Date:
CLERK'S VERIFICATION	
Collected by: <u>AB</u> Date Filed: <u>12/13/19</u> <input type="checkbox"/> MOTION FEE COLLECTED: \$ <u>2500</u> <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

PAID

Issues with the June 22, 2020 Ex Parte Order Judge Holmes signed

Canon 1 - A judge shall uphold the integrity and independence of the judiciary.

Canon 2-A judge shall avoid impropriety and the appearance of impropriety in all of the judges activities.

Canon 3-A judge shall perform the duties of judicial office impartially and diligently. (2) A judge shall be faithful to the law and maintain professional competence in it. (3) A judge shall require order and decorum in proceedings before the judge. (4) A judge shall be patient, dignified and courteous to litigants and other with whom the judge deals and shall require similar conduct of lawyers and others subject to the judge's direction and control (5) A judge shall perform judicial duties without bias or prejudice. A judge shall not by words or conduct manifest bias or prejudice. (7) A judge shall accord to every person who has a legal interest in a proceeding the right to be heard according to law. A judge shall not permit or consider ex-parte communications or consider other communications made to the judge outside the presence of the parties. (8) A judge shall dispose of all judicial matters promptly, efficiently and fairly.

Exhibit #19-Includes Certificate of Service, Ex-Parte Order, Email to Julaan Derrick from Anita Floyd's office

The following are issues that I have with Judge Holmes concerning her signing off on this Ex-Parte Order. First, I was never served-while I haven't been able to find an official violation to reference, it certainly cannot be ok. It was hand delivered to my attorney and then emailed to my attorney.

On June 22,2020, my attorney, Julaan Derrick was at the court house and happened to be waiting to speak with Judge Holmes regarding a separate case when Anita Floyd exited her chambers. Even though they should have notified her prior to their ex-parte communication neither informed Julaan of the Ex Parte Order that Judge Holmes had just signed. This is extremely corrupt and shows collusion, bias, impropriety and much more!

Rule 5(b)(3), SCRCP,

requires any party providing a proposed order, proposed findings of fact or conclusions of law, or proposed judgement or other paper to the court for its consideration in any

pending matter shall serve the same on all counsel of record at the same time and by the same means". It is a violation of the Rules of Civil Procedure and potentially a violation of the Rules of Professional Conduct to send the court an ex-parte request that has not been provided to opposing counsel **prior to submission!**

My attorney and I were never offered an opportunity to respond. Obviously Judge Holmes and Anita Floyd spoke about the merits of this case when she was requesting that she sign off on the Ex-Parte Order-this is not ethical or legal!

Canon3(g) of the SC Code of Judicial Conduct

A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding-except for a) scheduling, administrative purposes or emergencies that do not deal with the merits of the case. If this occurs the judge is required to allow the other party to respond – we were never offered an opportunity to respond.

Judge Holmes signed off on an Ex-Parte Order that did not provide us with a notice of motion or show in any way how any injury, loss or damage was going to occur if the ex parte order was not granted. Further there was no summons or complaint included and there was no hour of issuance stated.

Requests for Substantive Relief:

No temporary restraining order shall be granted without notice of motion for the order to the adverse party unless it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before notice can be served and a hearing had. Further, every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall be served, together with a summons and complaint in the event no summons and complaint have previously been served in the action.

Judge Holmes signed off on an Ex-Parte Order that did not define the injury, state why it is irreparable and why the order was granted without notice nor does the order include an expiration date. Even though this was during Covid there were no instructions or orders handed down from the Supreme Court to excuse this judicial abuse of power.

Rule 4:

Requesting attorney shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed 10 days. In no way were the following 3 requirements met prior to the Ex-Parte Order being granted:

None of the below criteria were met even though Judge Holmes signed off on it.

1) Ex-Parte relief cannot be granted unless it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before notice can be served and a hearing had

2) The Ex-Parte Order must define the injury and state why it is irreparable and why the order was granted without notice

3) The Ex-Parte Order must, by its own terms, expire within 10 days.

Exhibit #19

COPY

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
Joseph Harold Capps, Jr.,)
Plaintiff,)
-vs-)
Michelle Davis Capps,)
Defendant.)

IN THE FAMILY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
Case Number: 2019-DR-26-1437

CERTIFICATE OF SERVICE

I, Bridget J. Potter, as an employee of the law firm of Anita Floyd Lee, counsel for the Plaintiff in the above-entitled matter, certify that I have on the 22nd day of June, 2020, via Hand Delivery, the *Ex Parte Order, Order and Rule to Show Cause, Motion Form, Motion in Support of Rule to Show Cause and Affidavit of Plaintiff in Support of Rule to Show Cause* to the party listed below:

To:
Julaan Derrick
1422 Fourth Avenue
Conway, SC 29526



Bridget J. Potter
Assistant to Anita Floyd Lee
Attorney for Plaintiff
1115 Third Avenue
Conway, SC 29526
(843) 248-3206

2020 JUN 22 P 2:59
ELVIS
FIVE
SEVEN
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ELEVEN
TWELVE
THIRTEEN
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NINETEEN
TWENTY

COPY

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
Joseph Harold Capps, Jr.,)
Plaintiff,)
-vs-)
Michelle Davis Capps,)
Defendant.)

IN THE FAMILY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
Case Number: 2019-DR-26-1437

EX PARTE ORDER

FILED
MAR 19 2020 12:29:58
CLERK OF COURT
FIFTEENTH JUDICIAL CIRCUIT
COLUMBIA, SOUTH CAROLINA

TO: DEFENDANT ABOVE NAMED AND HER ATTORNEY, JULAAN DERRICK

BASED UPON the contents of the Affidavit in support of a Rule to Show Cause to which this *Ex Parte* Order is attached, together with the attachments to the said Rule to Show Cause, it appears as though a situation has arisen that requires immediate action of this Court for the protection of the minor child, E.C., who is 17 years of age, as well as for the protection of Petitioner's relationship with the minor child, which appears to have deteriorated since this child began spending unsupervised time with Defendant.

This Court recognizes that the issuance of an *ex parte* order, by its very nature, denies opposing party significant due process rights. Therefore, it hesitates to issue such an Order absent specific facts shown by affidavit or by verified complaint that immediate and irreparable injury, loss or damage will or may result before notice can be served and a hearing had thereon. In this instance, Petitioner/Plaintiff was awarded custody of the minor child based upon serious allegations of alienation, said allegations being verified by Dr. Davis Henderson pursuant to a Report which has heretofore been provided to this Honorable Court, a copy of which is attached to this *Ex Parte* Order for the recollection and review of the parties. Nonetheless, by way of letter dated April 3, 2020, Defendant/Respondent has determined that the minor child should remain with her and she has apparently refused the requests and demands of Plaintiff/Petitioner that the child be returned to his care. Accordingly, it appears as though this Court needs to provide immediate relief and guidance.

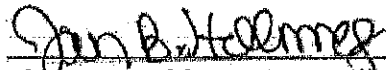
Therefore, it is

ORDERED, that Defendant shall return the minor child to Petitioner/Plaintiff, or shall otherwise make sure that the minor child is returned to her father, the Petitioner herein; and it is further,



ORDERED, that based upon the nature of this Order, a hearing shall be held on July _____, 2020, at _____ o'clock, ____m., before the Honorable _____, in the Family Courtroom # _____, or at such other place as may be announced prior to the hearing, located on the second floor of the Horry County Government and Justice Center, 1301 Second Avenue, Conway, South Carolina, to determine whether this *Ex Parte* Order should continue in accordance with the prior Order awarding custody to Plaintiff, or if it should be modified in any particulars.

IT IS SO ORDERED, this 27th day of June, 2020, at Conway, South Carolina.



The Honorable Jan Bromell-Holmes
Resident Judge for the Fifteenth Judicial Circuit
Fifteenth Judicial Circuit

From: rnette@jdlaw.com
Subject: FW: Capps vs. Capps-Filed Ex Parte Order and Order and RTSC
Date: June 22, 2020 at 5:26 PM
To: Michelle Capps mdaviscapps@gmail.com, cannonhm@hotmail.com, cguyton@sccoast.net



Please see attached Exparte Order that Ms. Lee filed.

From: bpotter@anitafloyd.com <bpotter@anitafloyd.com>
Sent: Monday, June 22, 2020 3:56 PM
To: 'Julaan Derrick' <jdl@jdlaw.com>; 'Rnette' <Rnette@jdlaw.com>; sage@jdlaw.com
Subject: Capps vs. Capps-Filed Ex Parte Order and Order and RTSC

Good afternoon.

Enclosed please find another clocked copy of the *Ex Parte* and Order and RTSC that I just hand delivered to your office.

We will need to submit our unavailable dates to schedule the hearing in the above matter once Krystle returns.

Thank you.

Bridget J. Potter, Legal Assistant
Anita Floyd Lee
1115 Third Avenue
Conway, SC 29526
843.248.3206
843.248.7173 FAX
Hours: M-Th 8:30 –5:00, Fr 8:30 –12:00

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Judicial Issues with 2nd Temporary Hearing on August 12, 2020 being continued

Canon 1 - A judge shall uphold the integrity and independence of the judiciary.

Canon 2-A judge shall avoid impropriety and the appearance of impropriety in all of the judges activities.

Canon 3-A judge shall perform the duties of judicial office impartially and diligently. (2) A judge shall be faithful to the law and maintain professional competence in it. (4) A judge shall be patient, dignified and courteous to litigants and other with whom the judge deals and shall require similar conduct of lawyers and others subject to the judge's direction and control (5) A judge shall perform judicial duties without bias or prejudice. A judge shall not by words or conduct manifest bias or prejudice. (9) A judge shall not, while a proceeding is pending or impending in any court, make a public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing

Exhibit #20-Includes 06-28-2019 Order from the Supreme Court re: Duties of Family Court Chief Judges for Administrative Purposes, Request for Hearing, email from me to Greg Forman, email from Judge Holmes notifying everyone that the hearing had been continued, email to Hal offering to help repair his relationship with the girls. Interesting that on the same day he sent a settlement offer asking for Emily to sign documentation to emancipate from him and for both girls to sign away any legal claims to him, my attorney's response to the settlement offer

It is hard to envision a scenario where ex-parte conversation and collusion were not going on between Judge Holmes and Anita Floyd for this to happen. Judge Holmes did not even cite a good and sufficient legal cause for the continuance. Even though Covid was going on I am not aware of any orders from the Supreme Court that negated the ones issued on 06-28-2019. All of the needed information regarding this is found in the exhibit.

Exhibit #20

2019-06-28-01

The Supreme Court of South Carolina

Re: Duties of Family Court Chief Judges for Administrative Purposes

ORDER

The Order dated November 21, 2012, setting forth the authority of family court judges designated as chief judges for administrative purposes is amended to read as follows:

Pursuant to Article V, Section 4 of the South Carolina Constitution and S. C. Code Ann. §53-3-20,

IT IS ORDERED that the authority of a family court judge designated as a chief judge for administrative purposes shall include, but not be limited to, the following administrative purposes and acts:

1. To call, or cause to be called, meetings of the county bar associations within the circuit for the purpose of preparing trial rosters and for such other purposes as they shall deem necessary. In any circuit with two chief judges for administrative purposes, each chief judge may call, or cause to be called, these meetings for the county for which he or she has been designated as chief judge.
2. To set an ABC Trial Roster for all terms of family court and designate which presiding judge shall hear such trial roster or rosters. All contested "A" cases set for three or more hours are to be backed up by a "B" case and a "C" case. If the "A" case goes to trial, the "B" and "C" cases are to be continued and rescheduled as an "A" case. If any of the "A", "B", or "C" cases settle, the presiding judge shall conduct a hearing to approve the settlement and dispose of the case(s) before commencing the contested case. In any circuit with two chief judges for administrative purposes, each chief judge shall set the trial rosters and designate which presiding judge shall hear the trial roster or rosters for the county for which he or she has been designated as chief judge.
3. To establish ABC Trial Rosters that equitably assign cases to each presiding judge in all instances where multiple judges are presiding over concurrent terms of family court.
4. To review the list of proposed cases submitted by DSS Child Protective Services for the development of and inclusion on the trial roster. A status conference for a matter on the list of proposed cases or trial roster may be scheduled at any time.
5. To review the list of proposed Juvenile cases submitted by the Department of Juvenile Justice or the Solicitor's Office for the development of and inclusion on the trial roster. A status conference for a matter on the list of proposed cases or trial roster may be scheduled at any time.
6. To hold all temporary hearings within four weeks of the request for such hearing being filed. To ensure that this timeline is met, the chief judge for administrative purposes, with the assistance of the docketing clerk, shall monitor the scheduling of these matters. In all temporary hearings allotted fifteen minutes, each party shall be limited to eight pages of affidavits, excluding proposed parenting plans, financial declarations, attorneys' fees affidavits, and attachments or exhibits offered only as verification of information in the affidavits. Parties wishing to exceed the fifteen-minute limit must request additional time from the scheduling clerk. Any temporary hearing requiring more than thirty minutes must be deemed complex upon application to the chief judge.
7. To equitably apportion a multi-county term among the designated counties.
8. To assist the clerk of court in fulfilling his or her responsibility pursuant to S. C. Code Ann. §14-17-210 to assign courtrooms and offices to the presiding circuit and family court judges.
9. To assure where practicable that family court convenes each day of a term within the guidelines specified by the Chief Justice. In any circuit with two chief judges for administrative purposes, each chief judge shall be responsible for the county for which he or she has been designated as chief judge.
10. To coordinate the activities of the family court with other affected persons and agencies to ensure cooperation and effective judicial service. In any circuit with two chief judges for administrative purposes, each chief judge shall coordinate the activities of the family court for the county for which he or she has been designated as chief judge.
11. To direct the clerks of court and presiding judges to keep and maintain such records as deemed necessary, upon the approval of the Chief Justice, of the disposition of cases during each term of family court. To help increase the reliability of caseload information, regularly review the lists of pending cases in the records maintained by the clerks of court with the data collected and reported by the South Carolina Judicial Branch and bring any discrepancies to the attention of the clerks of court so that the records may be reconciled.
12. To grant continuances when requested by counsel or self-represented litigants for good and sufficient legal cause stated in writing prior to the commencement of any term of court.

13. To resolve any scheduling and other administrative problems which arise in conducting the terms of family court.
14. To ensure that all matters that arise during the weeks designated as "in chambers" are heard within the timeframes set by statute or rule.
15. To consider requests to be relieved of appointments to serve as counsel or guardian ad litem for indigents pursuant to Rule 608(f)(3), SCACR.
16. To perform such other administrative duties as shall be assigned from time to time by the Chief Justice.
17. Except as specifically authorized herein, no rule affecting the operation of the courts shall be adopted without prior approval of the Chief Justice.

IT IS FURTHER ORDERED that when a chief judge for administrative purposes has a conflict in a matter or proceeding and is thereby prevented from performing these duties in a matter or proceeding reserved to the chief judge for administrative purposes, the following procedures shall be followed:

- a. In those circuits with only one chief administrative judge, the matter or proceeding shall be referred to the Chief Justice for assignment to a chief administrative judge of an adjoining circuit to administer
- b. In those circuits with two chief administrative judges, the matter or proceeding shall be referred to the other chief administrative judge to administer. If the other chief administrative judge is also disqualified, the matter or proceeding shall be referred to the Chief Justice for assignment to a chief administrative judge of an adjoining circuit to administer.
- c. Should the chief administrative judge(s) in the circuit and those in the adjoining circuits be disqualified, the matter or proceeding shall be referred to the Chief Justice for assignment to a chief administrative judge of another circuit to administer.

IT IS FURTHER ORDERED that if a trial or hearing has commenced and the judge is unable to proceed, the chief judge for administrative purposes shall assign the trial or hearing to a successor judge. If the chief administrative judge has a conflict and is thereby prevented from performing this duty, the matter shall be referred to the Chief Justice to assign a successor judge. The successor judge may proceed with the trial or hearing upon certifying familiarity with the record and determining that the proceedings may be completed without prejudice to the parties. The successor judge shall at the request of a party recall any witness whose testimony is material and disputed and who is available to testify without undue burden. A successor judge may provide for the recall of any witness.

IT IS FURTHER ORDERED that this Order shall remain in effect until amended or rescinded by Order of the Chief Justice.

s/Donald W. Beatty
Donald W. Beatty
Chief Justice of South Carolina

Columbia, South Carolina
June 28, 2019

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)
)
JOSEPH HAROLD CAPPS, JR.,)
) Plaintiff,)
) vs.)
MICHELLE DAVIS CAPPS,)
) Defendant.)

IN THE FAMILY COURT
_____ JUDICIAL CIRCUIT

REQUEST FOR HEARING

Docket No. 2019-DR-26-1437

Plaintiff's Attorney: Julaan Derrick
Mailing Address: 1422 Fourth Avenue, Conway, SC 29526
Telephone: (843)488-0881 ext. _____ Fax: (843)488-0884
Email: Terri@jdlaw.com

Defendant's Attorney: Anita Floyd Lee
Mailing Address: 1115 Third Avenue, Conway, SC 29526
Telephone: (843)248-3206 ext. _____ Fax: _____
Email: bpotter@anitifloydlaw.com

Guardian ad Litem: Heather Cannon
Mailing Address: 1421 Third Avenue, Conway, SC 29526
Telephone: (843)488-2426 ext. _____ Fax: _____
Email: cguyton@sccoast.net

Type of Hearing: 2nd Temporary Hearing via Submission
Time Needed: 30 minutes

Dates and Times Unavailable: _____

Child Custody at Issue: Yes No

Are Other Issues Contested Yes No If yes, explain: _____

If yes to either above, submit a mediation report.

Comments and Issues: _____

Hearing Requested by: Julaan Derrick

Date: 7/24/20

For: Plaintiff

Defendant

******Section below to be completed by Clerk of Court. ******

The hearing in this matter is scheduled for 12th day of August 2020, at 9:30 (time)

a.m./ p.m., Courtroom via Submission, before the Honorable James McGee for 30 minutes (length of time).

From: Michelle Capps [mailto:mdaviscapps@gmail.com]

Sent: Wednesday, August 12, 2020 7:00 PM

To: Gregory Forman <attorney@gregoryforman.com>; Julaan <jdl@jdlaw.com>

Subject: Capps

Greg-

I wanted to get your advice on any possible options for recourse on a situation that came up this week.

I was scheduled to have a temporary custody hearing today at 9:30 - the GAL & counselor were both in support of me getting custody returned. Anita realized we had their support and sent me and Julaan a "settlement offer" - requesting Emily emancipate herself and that both of our daughter's sign documentation agreeing to not pursue any future legal action against Hal and that they basically were releasing him from any financial support - they also requested that the appeal and college support cases be dropped along with some other items. Of course, we did not agree. Anita then requested a phone conference to be scheduled between her, Julaan and Judge Holmes, she is the administrative judge at this time. A phone conference was scheduled for this past Monday, 8/10 at 12:00. Anita/Hal were upset that even though they had filed the Ex-Parte and RTSC(requesting 5+ days) against me when we filed for a temporary custody hearing it was scheduled rather quickly, due to only needing a very small amount of time, and they still have not been given a date. My regaining custody basically nullifies their claims. Julaan is not aware of any law or precedent that would provide that one hearing is not able to take place prior to the other. Even though a phone conference or WebEx meeting had been scheduled, Judge Holmes just sent out the following email, which of course, gave Julaan no ability to express her beliefs or ask any questions etc.:

From: Holmes, Jan Bromell <jholmesj@sccourts.org>

Sent: Monday, August 10, 2020 12:13 PM

To: Julaan Derrick <jdl@jdlaw.com>; 'afloyd@anitafloydlaw.com' <afloyd@anitafloydlaw.com>; 'bpotter@anitafloydlaw.com' <bpotter@anitafloydlaw.com>; cguyton@sccoast.net; terri@jdlaw.com

Cc: Holmes, Jan Bromell Secretary (Cindy R. Hardy)

<JHolmesSC@sccourts.org>; 'Housand-Church, Krystle (churchk@HorryCounty.org)' <churchk@HorryCounty.org>

Subject: RE: Capps vs. Capps

Good Afternoon All:

I have conversed with Judge Norton and Judge Landis with respect to the above matter. Please be informed that the Motion hearing scheduled before Judge Landis is continued. All pending motions and Rules to Show Cause shall be scheduled for the same date and time taking into consideration all required time needed for the pending hearings. Mrs. Lee, please prepare the order for my signature. Thanks!

Jan B. Bromell Holmes

Jan B. Bromell Holmes
Family Court Judge, 15th Judicial Circuit

From: **Michelle Capps** <mdaviscapps@gmail.com>

Date: Fri, Jul 31, 2020 at 1:51 PM

Subject: Emily

To: Hal <halman26@aol.com>

Hal-

Hope that you are well.

After Emily returned home I saw such an improvement in her attitude and relationship with you. She genuinely was enjoying her time with you, and she would look forward to dinners that y'all had planned and spending time with you. When you would bring her back she would be in a good mood and have positive things to say. I honestly was so hopeful that not only would these feelings last, but that they would go stronger and possibly even bridge over to you reaching out to Haley Kathryn. Obviously, all of this progress was halted when you filed the Ex Parte Order and RTSC. I know that you are aware that Emily feels that you lied to her and that you don't genuinely care about having a relationship with her, that you are using her to harm me and that everything that you have done to Haley Kathryn will inevitably be done to her as well. I want you to know that I am doing everything I can to counter these thoughts and emotions with her. I encourage her to reach out to Tamara so that she can process her emotions/ feelings with her, and everyday I ask her to respond/ reach out to you. She is 17 years old now and it is a difficult age for many reasons. Neither of us can any longer force or make her do anything. This transition into her young adulthood isn't easy. She is going to make mistakes, and she is going to make bad choices. I want both of our daughters to know that they are loved and supported by both of their parents. I constantly try to think about what I could possibly do to help this situation. One thing that I have come up with is that if you would agree, I would be willing to meet with you and Emily together. You could pick the place/ time that worked for you. I think that if Emily could see us on the same page, being respectful and cordial to each other it could possibly go a long way with her. I am not naive in thinking that we could change her feelings about what has happened in the past, but I am hopeful that we could help her to care enough about trying again to have a relationship with you. College applications open up tomorrow, and Emily will begin applying to colleges and making plans for moving on before we know it. Even though her senior year is going to be very different than what we had envisioned, I still want it to be the best ever for her. In order for that to happen, she needs to have a positive relationship with her father. She needs to feel your love and support.

I hope that you will agree with my offer, and I want you to know that this extends to Haley Kathryn as well. Take some time to think about it and let me know your thoughts.

M

ANITA R. FLOYD

A PROFESSIONAL CORPORATION

Telephone: (843) 248-3206

Facsimile: (843) 248-7173

1115 Third Avenue
Conway, SC 29526

P. O. Box 1482
Conway, SC 29528-1482

July 29, 2020

Via E-Mail and U.S. Mail

Ms. Julaan Derrick

Conway, South Carolina 29526

jd1@jdlaw.com

Re: Capps vs. Capps

Dear Julaan:

After an event of last week, my client and his wife have realized that Michelle cannot and will not change, regardless of how many experts tell her she is wrong, or try to help her overcome the pathology that has created this alienation of the children from their father. Hal Heidt had a good handle on the situation, but Michelle left him the moment he confronted her. She was not honest with Helen Bayne, the counselor she was to see for alienation, yet who had no idea of many of Michelle's antics.

Likewise, Ken Smith was Michelle's choice – until he confronted her and tried to address why the children were so alienated from their father. Most recently, Julia Castillo has indicated that Michelle refused to attend the Court Ordered counseling with her, and Julia provided a copy of a letter from you that your client was not going to attend the counseling that had been Court Ordered.

Dr. Capps has 2 Rules pending, and I have expressed my belief that if Michelle is found in Contempt of Court, she will most probably be sentenced to a term of imprisonment, and that given her blatant refusal to even attend the Court Ordered counseling, I thought the sentence may be months rather than days. Despite your proclamations in Court, vindication is not now, nor has it ever been, my client's motive. He divorced Michelle, not the children, and although Michelle expressed that if Hal didn't want her he couldn't have the children, he did not think Michelle would be able to destroy the relationship he had developed and nurtured from the time Haley Kathryn and Emily were born until the time he divorced Michelle. However, he was wrong.

Whether Michelle will acknowledge this or not, the facts will show and the experts will agree that Emily and her dad were re-establishing their relationship when Michelle was not allowed any unsupervised contact with Emily (notwithstanding that Michelle disregarded the "no contact" aspect of the order). However, the relationship plummeted to a new low after the supervision aspect of Emily's contact with her mother was lifted.

In fact, she has gone from solo and family trips with Hal and his wife Sherri, to once again refusing to spend time with her dad. I believe it is *de facto* contempt, though that would be for the Court to decide.

As I am sure you know, Emily did go back to Dr. Capps' house after Court on July 6th; she went straight up to her room, packed up most of her clothes which Michelle had alleged were already at Michelle's house, and then she walked out and said she was not going to stay with Dr. Capps.

Over the course of the last few weeks, Dr. Capps and Sherri have prayed about this; they have discussed the situation with trusted friends and family; and they have decided that the next step – seeking Michelle's imprisonment – is not going undo the alienation which Michelle has caused.

Although he is not sure what Michelle has "won", he does concede that if she accepts the following offer, she will never be held accountable for her actions:

1. Emily wants to live with her mother, and she does not want to follow the Court's Order. Accordingly, she should be emancipated. That way, she will not have to worry about living with her father or even about seeing him; and Michelle will have what she wants which is for Emily to live with her. If Emily wants to see Dr. Capps, she can contact him at her pleasure, and he will always be available.
2. Dr. Capps will release Haley Katheryn's SC Prepaid College account, and she can do with it what she wants. Dr. Capps will not be financially obligated to provide anything further for Haley Katheryn, though if Haley Katheryn ever needs anything, she can contact her dad at her pleasure.
3. As Haley Katheryn is an adult, and Emily will be emancipated, there is no reason to address custody any further.
4. Plaintiff will not seek prorated child support from Defendant (as this was reserved at the initial custody hearing); he will not seek further attorney's fees from Defendant.
5. Defendant shall be responsible for all outstanding fees and costs to all experts as well as to the Guardian *ad litem*.
6. All pending actions in all courts (appellate and trial court) shall be dismissed by both parties, and each will pay his/her own attorney's fees.
7. If the children need anything, they can contact their dad and they will discuss with Dr. Capps directly whatever the issue may be. Finances will be between the children and their father, with NO interference by Defendant.

8. There will be no lawsuits brought by the children, and they will both sign this document showing that it is their desire to be treated as adults so that they cannot be bound by any court order.
9. Currently, in the Marital Settlement Agreement, Section (b) "Insurance" provides that Dr. Capps is to maintain a \$1,000,000 insurance policy with Defendant as beneficiary, and that Defendant has the option of purchasing up to an additional \$1,000,000 of life insurance on Plaintiff at her expense. This provision of the Agreement will be modified to provide that neither party will be allowed insurance on the life of the other.

Dr. Capps believes that Michelle is pathological and histrionic, and that she is obsessed with him and what he does. He knows she has asked both children to take pictures of what is in his house, and she has misrepresented herself as being the "current spouse" of Dr. Capps on two occasions, and she has tried to solicit friends and neighbors to join in her efforts to surveil Dr. Capps' life.

Dr. and Mrs. Capps are actually leaving the neighborhood as soon as they can, as they do not think they are safe with the Defendant so close, and they hope that if distance is provided, perhaps Michelle will stop the very unhealthy obsession she has with them.

Please review this with your client and let me know if we can have a global settlement of all issues according to the terms of his offer.

Sincerely,

Anita F. Lee

cc: Heather M. Cannon
Julia Castillo
Tamara Willard
Gregory Foreman

JULAAN DERRICK
Attorney at Law
1422 Fourth Avenue
Conway, South Carolina 29526

P.O. Box 286
(843)488-0881 Conway, SC 29526
Fax: (843) 488-0884

August 7, 2020

Via Email Only

Anita L. Floyd
1115 Third Avenue
Conway, SC 29526

RE: Joseph Harold Capps, Jr. vs. Michelle Davis Capps
Case No.: 2019-DR-26-1437

Dear Anita,

My client has no idea what the "event of last week" was that convinced your client "Michelle cannot change." Further, Hal Heidt (Hal's buddy, Facebook friend and patient) did not have a "good handle" on anything. He simply was Hal's number one witness, who offered as evidence an illegally obtained recording that occurred in his office, allegedly without his knowledge or consent, prior to the Final Order being signed. Further, when I requested a copy of his records, he refused to send me anything. Could it be that no records exist?

In regards to Ken Smith, his clinical records, billing statements and testimony do not match. His notes describe behavior with HK in a session when she was not present, due to getting her senior pictures made. He described issues with both girls in session when both were out of town on their mission trips and could not have been in a session. He further described how sad Hal was that the girls refused to spend any time during Thanksgiving with him. In fact, the girls spent Thanksgiving with their father and his family and had an enjoyable day. Michelle never was his patient and he never confronted her about the children being alienated from their father. Further, Ken Smith continued working with your client and both of the girls until we went to court. Your client obtained an affidavit from Ken Smith to support the Ex Parte Order, which was totally fraudulent. In his affidavit he stated that in July 2018, Hal and both girls discussed the statements in your

client's affidavit supporting his desire for Michelle to be imprisoned and for the girls to both go to foster care. He stated that both of the girls were fine with their father's requests of the court and they never brought it up again. In May 2019, after Emily and HK both had actually become aware of your client's requests, Emily spoke to her father and explained how his requests to put her and HK in foster care and her mother in prison had greatly upset her and caused her to not feel safe being with him that weekend. In his affidavit, Ken Smith, inferred that this emotional outburst must have been Michelle's doing, since they had already addressed this issue in July 2018. Hal has recently confessed to Tamara Willard and Emily that the subject of his requesting the court to put the children in foster care was never discussed with Ken Smith and the girls. Since this monumental "discussion" was never referenced in any of Ken Smith's clinical notes it makes sense that it actually never took place.

In regards to Julia Castillo, it was obvious from the beginning, where her loyalties lied. She would make statements about Emily's behavior at Hal's residence, when clearly she would not have been there to witness such, and was only repeating what Hal told her. Also, Julia would include Hal on her texts with Michelle but would clearly have texts with Hal that Michelle was never copied on. Further, Julia was the one who did not show up for the last counseling session with Michelle, and never called to reschedule. Julia NEVER even mentioned co-parenting sessions for almost an entire year and not until after Emily had remained at home with Michelle. It was never important to Julia when Michelle was having ridiculously limited time with Emily, nor was it important to Julia not to share false statements of Michelle's with Hal.

With Hal's permission, Emily remained at home with Michelle beginning in March. During this time Emily and her father would frequently go out to supper and text and call each other. Your client had no problem returning Emily back to Michelle's after they had been out. Hal allowed Emily to come over to his house and pack up her clothes and personal items on several occasions to take back to Michelle's. Further, your client even packed up more of her things and brought them over to her at Michelle's house. Emily did not have to take a bunch of stuff back to Michelle's on July 6th, as the vast majority of all of her clothes and personal items, were already there. Your client's behavior clearly demonstrated his approval of Emily living with Michelle.

Your client's relationship with Emily is at a "new low" because of him being more interested in incarcerating Michelle than having a relationship with Emily. This is something that he promised Emily that he would not do. This action devastated Emily and proved to her, yet again, that her father hates her mother more than he loves her. There is no "de facto" contempt on my client's part, just a very bad decision on your client's part to obtain an Ex Parte Order without notifying the opposing counsel and "blind siding" all of the parties involved, especially Emily.

Seeking Michelle's financial ruin and imprisonment has in fact lead to your client's estrangement from both of his daughters. His main goal has been to harm Michelle, not have a relationship with his children. Even Dr. Henderson did not call it "alienation" and he based his opinion on false information from your client about Michelle interfering with his relationships with his daughters, when he was the one who did not exercise his visitation.

In a six day contempt hearing, Judge Bromell- Holmes only found Michelle in contempt for one incident involving the children, which was when Michelle told the girls to record their father's explosive and frightening behavior at a restaurant. This is same time he stole HK's phone and lied to two police officers about it. My client is paying \$40,000 in alimony reductions for this incident, along with 2 other minute issues. One of which is notifying him that due to her being included in the Equifax data breach and having to put overrides on all of her accounts, he was no longer going to be able to deposit her support checks into her account. According to your client, there was no other way for him to get the checks to her. Since then, I have had to write you because recently he somehow found a way to put the checks in her mailbox, something that he couldn't possibly do the last time we were in court.

My client is not concerned about returning to court. Further, it has become abundantly clear, what your client's motivations truly are. He wants Michelle in jail and broke. He has little, to no regard, for the emotional well being of his children. On many occasions you have stated that your client divorced my client, not his children. In actuality, my client is the one who divorced your client. My client retained an attorney in April of 2012. I believe that you weren't retained until nine months after that. While your client did initially show up to the courthouse, once he realized all of the evidence proving his adultery, he snuck out. My client divorced him by herself, and did so with pleasure. Your offer to have Emily emancipated is exactly that, a request to divorce his child. Therefore, my client will respond to your offer as follows:

- 1) Emily will not be emancipated. Your client will not shuck his responsibilities by refusing to financially provide for her until she graduates from High School.
- 2) Hal had no right to ever block or deny HK her SCTPP account. I wrote to you sometime back and asked you to address this with him. Also, I warned you that an action could be filed, but I was hopeful that Michelle would be satisfied if HK could receive these funds. This fell on deaf ears as did HK's direct pleas to her father. His response to her request for her funds was hateful and upset her greatly. Therefore, his offer that if she ever needs anything, she could contact him, we all know doesn't work. Greg Forman has already filed an action for college support.
- 3) Custody of Emily will be returned to Michelle.
- 4) Child support: Your client cannot get something he did not ask for. More specifically, he stated he was not seeking child support. I am sure he did this so he would not have to disclose his

Your client will pay child support to Michelle, back to the date Emily was allowed to move back home, with his permission. I need an updated financial declaration from your client, or you can get me the information that I requested through the discovery. If I do not receive this information by August 10th, I plan to file a Motion to Compel.

5) Costs- Your client brought this action and he alone will be responsible for her attorney fees (\$29,202) along with the expert fees (\$3,500 Davis Henderson, \$2,300 Tamara Willard, \$658.80, to La Toya Simmons, \$2,500 to Helen Wheeler, and \$2,400 to Julia Castillo) and the balance of the Guardian ad Litem fees. Michelle lost \$2,000 in taxes. She paid for Mission trips while he had her which costs \$1,400.

6) All pending actions will remain open. However, if your client will reimburse Michelle for the monies she lost on the Rule Action (\$40,000), the counseling fees and costs related to this action (\$16,378.80) along with \$29,202 in attorney fees, she will agree to settle this custody issue.

7) The children contacting their father for anything that they need does not work. It has already been tried. Your client has already written off HK and refused to reinstate her SCTPP plan when she spoke with him.

8) The children will not sign documentation to waive any lawsuits.

9) Life Insurance: This is actually a \$2 million dollar life insurance policy. One million is designated with Michelle solely as the beneficiary and the other \$1 million is to be designated solely to HK and Emily as the beneficiaries. Michelle, nor the children, will waive being named as the beneficiaries of this policy. In fact, your client needs to provide immediate proof to Michelle that he still has this policy and that there has been no changes made to the beneficiary. My client did not represent being the current spouse. She told the insurance company her name, which is still Capps. Further, in this policy she is listed as the "ex-spouse", representing herself as someone who is not supposed to be included in this policy would not have helped her to get the information that she sought. Further, your client needs to immediately provide Michelle with a complete account history for both of the Roth IRA accounts that they set up for their daughters, including any recent contributions and balances. Your client needs to provide access to Michelle so that she is able to check on both the life insurance policy and the Roth IRA accounts.

My client has not requested friends and neighbors to surveil your client. However, your client did approach a friend of Michelle's, in a very accusatory manner, regarding the affidavit that she provided her at the temporary hearing. Your client did this in the presence of many others.

During the course of this action my client has had a tracker placed on her car, and obtained evidence on her cell phone and home computer of it being hacked. She was excluded from medical decisions concerning Emily and was not notified when Emily was diagnosed with a Major Depressive Disorder along with suicidal ideation, after your client obtained custody. She further was not included on the decision to place Emily on an antidepressant or birth control.

Coincidentally, Michelle and HK were both dropped as patients of Dr Bibb, on the exact same day that Judge Buchanan continued Hal's temporary custody of Emily. This is the same office where Hal's current wife is employed and this was done without any notice or explanation to my client. Further, the exact same day, the exact letter that was sent to Michelle and HK was also sent to a friend of Michelle's dismissing her from Hal's dental practice. Hal blocked Michelle on Emily's school accounts and made false statements to Emily's school regarding Michelle. Hal has slandered and defamed Michelle and his daughters to anyone in this community who would listen to him. The fact that he attempts to call himself a victim is laughable. He has attempted to sell his house on many occasions before, and more recently did not allow Emily in the house because he was doing some work on it.

It is totally ridiculous that your client claims he does not feel "safe" in the same neighborhood. Actually, it demonstrates your clients narcissistic personality to believe, that Michelle is obsessed with him. He has initiated 2 contempt actions and a custody action over the past four years and this has cost Michelle well over \$100,000.00+ that she does not have. I believe that it is your client's realization that he will never have Michelle again that has created his obsession with her; his desire to punish her for this by financially breaking her and trying to put her in jail is what has been fueling his legal actions.

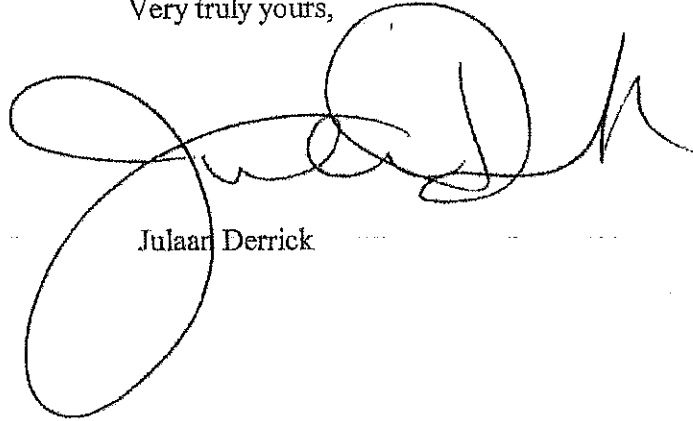
We hope that the parties will be able to agree to these terms and end this nightmare custody dispute once and for all. While I can appreciate that the thought of having to reimburse Michelle for her attorney fees and costs/ fees etc. associated with this case is not appealing, I would remind you that going forward those costs/fees are only going to increase greatly. We believe that this whole action was frivolous and brought by fraudulent means. We have no doubt that any judge would come to the same realizations and after looking at the shocking discrepancies in their incomes, would recognize the purposeful abuse that has taken place and grant most of Michelle's fees, costs, expenses to her. If we end up having to go to trial, Michelle will be bringing in Dr. Richard Warshak, the nation's foremost expert on Parental Alienation and Realistic Estrangement. While bringing him all the way from Texas will be quite costly, it will be worth having him shut down this nonsense once and for all. Before you respond please look at his website: www.Warshak.com I have also attached one of his recent publications: When Evaluators Get it Wrong: False Positive IDs and Parental Alienation.
parentalalienationresearch.com › PDF › 2019warshak

Please discuss these terms with your client and get in touch with me as soon as possible. We need to settle this matter if we can. Emily deserves to have a happy and stress free senior year. She is an intelligent, and kind hearted young lady and she does not deserve being caught up in a continued

legal battle at her age. I believe the fact that emancipation is your client's answer is, in fact, proof of who Emily needs to be with.

With kind regards, I am

Very truly yours,

A handwritten signature in black ink, appearing to read "Julaan Derrick". The signature is fluid and cursive, with a large loop on the left side and a sharp upward stroke on the right.

Julaan Derrick

JD:rs
client
Heather Cannon
Tamara Willard
Latoya Simmons

Judicial Issues with Motion for College Support being Dismissed

Canon 1 - A judge shall uphold the integrity and independence of the judiciary.

Canon 2-A judge shall avoid impropriety and the appearance of impropriety in all of the judges activities.

Canon 3-A judge shall perform the duties of judicial office impartially and diligently. (2) A judge shall be faithful to the law and maintain professional competence in it. (4) A judge shall be patient, dignified and courteous to litigants and other with whom the judge deals and shall require similar conduct of lawyers and others subject to the judge's direction and control (5) A judge shall perform judicial duties without bias or prejudice. A judge shall not by words or conduct manifest bias or prejudice. (9) A judge shall not, while a proceeding is pending or impending in any court, make an public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing.

D. Disciplinary Responsibilities

2) A judge who receives information indicating a substantial likelihood that. A lawyer has committed a violation of the Rules of Professional Conduct contained in Rule 407, SCACR, should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority.

E. Disqualification

1) A judge shall disqualify himself in a proceeding in which the judge's impartiality might reasonably be questioned a) the judge has a personal bias or prejudice concerning a party or party's lawyer.

*** By now I believe that I have given enough examples of obvious misconduct that was witnessed, encouraged and colluded with by Judge Holmes. I further believe she is in violation of not reporting Anita Floyd for extreme violations of Professional Misconduct.**

- * When Judge Holmes took on this college support case I was in an active appeal against her. I believe that she absolutely should have recused herself so as not to continue with her appearance of impropriety and bias. One of my claims was how she never required Hal to abide by the Rules of Court and comply with Rule 20, SCFCR and require him to file a Financial Declaration - which she also never did for any motion or hearing regarding this case as well.
- * I did not purchase a transcript for this hearing as I was not able to afford an appeal.
- * I filed this college support case on 7/30/20 - if this had been addressed in our MAA and divorce settlement why did this go on so long-why hadn't that been referenced in any affidavits, motions or even in Hal's November 2, 2021, Motion for Dismissal? This November 2, 2021, hearing was a prime example of corruption, collusion, and was a total ambush. Horrific display of legal, financial and judicial abuse.

To help keep things straight I will do a basic timeline for this case:

July 30, 2020 - I filed the action for college support

July 31, 2020 - Hal sent a letter to offer settlement on our custody case in which he requested our youngest legally emancipate from him and both daughters sign documents to sever any legal ties and financial responsibilities for college support or anything else from Hal.

September 25, 2020 - Hearing for the motion for temporary relief - Hal once again did not file a financial declaration and made no mention of college support or any of his financial responsibilities for the girls' education already being settled.

September 25, 2020 - Hal files an 81 page Answer/Counterclaim where again not one thing is referenced to college support or any of his financial responsibilities for the girls' education already being settled in our final agreement.

September 25, 2020 - Hal files his Affidavit where again not one thing is referenced to college support or any of his financial responsibilities for the girls' education already being settled. Further he claims that he offered to provide payment for college to our oldest daughter if she would go to counseling - she had already been in college for over a year at this time and told her that she was not welcome in his house or office and cut off her health insurance.

September 25, 2020 - Hearing for Temporary Support was denied by Judge Holmes

October 5, 2020 - we filed the Reply to Hal's Counterclaim requesting an Order for it to be dismissed

October 5, 2020 - Hal filed Defendant's Responses

October 29, 2021 - My affidavit in return for Hal's motion for a protective order and to dismiss

November 1, 2021 - My return for Hal's motion for a protective order and to dismiss

November 2, 2021 - Hal's 14 page affidavit to block me from his financials and to dismiss the college support case. No exhibits or references to his request for counseling with Haley Kathryn nor is one thing referenced to college support or any of his financial responsibilities for the girls' education already being settled in our final order.

November 2, 2021 - Hearing for the motion to block me from Hal's financials and to dismiss my case for college support. Judge Holmes did not make a ruling. We expressed how out of order this hearing was- we had not even requested Hal's financials and this should have just been brought up at the hearing. We literally had Mediation scheduled the next day!

November 3, 2021 - Mediation with Melissa Frazier - once again not one thing is referenced to college support or any of his financial responsibilities for the girls' education already being settled.

November 12, 2020 - Filed - Final Order denying motion to request Hal to contribute to Haley Kathryn's college expenses on a temporary basis

December 13, 2021 - Judge Homes issues her ruling and dismisses the case-asks Anita Floyd to draft the Final Order

March 9, 2022 - Final Order filed for Dismissal of college support

Exhibit #21 - Includes copy of the bank note, copy of our Marital Asset Addendum, Text from Haley Kathryn when he blocked the release of her SC Tuition Prepayment Plan, Haley Kathryn's Estimated Cost of Attendance at Honors College at USC, My 9/25/2020 Affidavit for Temporary Relief for College Support, 9/25/2020 Order for no Temporary Support, 10/29/2020 My Affidavit, 11/1/2020 My Return, 11/2/2020 Hal's Affidavit, 3/15/2021 Hal's Motion to Dismiss, Emails regarding issues with final order that were never adhered to, 3/9/2022 Final Order Dismissing the case.

Even though I can refute every issue cited in her ruling that is not the purpose of this complaint. I will provide some additional information on a few key points:

1) The SCTPP was set up in 2003 – the amount paid into them was from both of us.

During our divorce in 2014 the remaining balance was settled just like any other

outstanding debts we had-Hal agreed to pay the remaining balance and any monies/assets that I received were offset by the debts that he agreed to take on. I took LESS so that he would cover any outstanding debt. So again-both SCTPP accounts were contributed to equally by both of us. The only thing our MAA references is that he agreed to pay the remaining balance of the plans and I took less assets for him to do so. If we had any forewarning of this claim I could have easily gotten affidavits from my divorce attorney, George Hearn and my forensic accountant Jeff Kinard but again, this was an ambush.

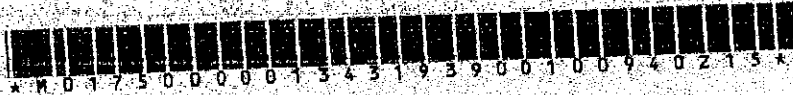
- 2) There is no case law that requires the girls to bring forward this action or be a party to this case! I have not attempted to present any statements by either of the girls so no hearsay
- 3) While we were married we always knew that we would need a lot more money to pay the difference in tuition and what the girls would need for overall college expenses. For over 10 years we were paying around \$35k per month for the loan for the dental practice. Instead of paying into a 529 account we chose to focus on paying down the practice loan. That is why even after we were separated in 2012, I agreed to sign off on helping Hal to refinance the practice loan. Our house was in my name and was needed for collateral for the new loan. By refinancing I literally saved Hal over \$200k + in interest payments and the practice loan was paid off in June of 2018 instead of 2020. Haley Kathryn graduated from high school in 2019 and Hal persuaded me to help him refinance by promising to use the extra \$35k he would now have each month in disposable income to provide whatever the girls needed for college and graduate school. He promised me that they could go to any college they could get in to and could take part in any activity – sorority, study abroad-whatever they could qualify for he would be able to pay for.
- 4) Why does Judge Holmes request for Anita to submit the exhibits that support her ruling - in the beginning paragraph she states that she has fully reviewed the file and all its submissions - again this shows extreme bias.
- 5) One of the greatest frustrations I have experienced throughout all this judicial, financial and legal abuse is how false statements get placed in Final Orders and then they appear to be true, and I am stuck with them to deal with. On the bottom of

the 1st page of Judge Holmes ruling the last sentence states.... Due to documented alienation by the mother as determined in Court orders... glad she at least acknowledged only the orders show it.

- 6) The 2nd page-1st paragraph where she references public policy and life's lessons... has no grounds and is just too much! Her constant negative put downs and slander of my daughter's is beyond biased.
- 7) The email that is referenced on page 2 of the ruling has never once been authenticated or validated. Judge Holmes arrogantly speaks on this with full conviction when it should not even be up for discussion or even referenced. She should not be basing her ruling on things that have never been testified to and at the very least authenticated. I feel that this is another extreme example of biased judicial behavior. She should not be manipulating this email and using words like conspiring and untruthful when she has no context for what if anything occurred. Again, this email was attached to some part of one of their motions in the college support case – never testified to or authenticated or made available for cross examination.
- 8) How in the world can she claim that the courts hands are tied as to the truth as to what amount if any is needed by the girls above and beyond the prepaid tuition? It is basic math-if the cost of attendance is \$34k and the prepaid tuition covers \$12k – there is a great and obvious discrepancy and a definite need. Further, she cites that there is no evidence of my paying for any of Haley Kathryn's college expenses but it is clearly displayed in my 9/25/2020 Affidavit for Temporary Relief
- 9) I find it slanderous for Judge Holmes to state on the bottom of page 3 that this lawsuit is yet another attempt by me to continue litigation with Hal. This motion hearing wasn't even necessary-we had not even requested his financials. This could have been brought up at trial. What this is-is another attempt to hurt me financially. I am certain that Anita and Judge Holmes have had ex-parte communication on all of this and worked together to come up with this ridiculous claim that we addressed Hal's college responsibilities in our divorce settlement

In closing, for years Judge Holmes has weaponized her court room, abused the judicial and legal process, allowed, encouraged and colluded with legal professional misconduct, violated countless judicial canons, allowed slanderous lies and misinformation to be weaponized against me and my daughters and placed on the record and in final orders. She was a willing participant in my post separation abuse by allowing legal, financial and emotional abuse to be perpetrated against me and my daughters for years. This behavior of hers caused me to have to drain my savings, my retirement plan, max out my credit cards and pull all of the equity out of my house in an attempt to protect myself and my daughters. After all of her slanderous lies about me I guess it is time that I told the truth about her. It is my belief that she not only not be vetted and deemed acceptable by the JMSC for another 6 year term but that she is removed immediately from the bench. She is a judicial predator and is a danger to the families of Horry County.

Exhibit #21



TERM NOTE

June 8, 2012

\$1,925,000.00

For value received, the undersigned J. Harold Capps, Jr., DMD, PC, a South Carolina corporation, with an address of 1635 Glens Bay Road, Surfside Beach, South Carolina 29575 (the "Borrower"), promises to pay to the order of TD Bank, N.A., a National Association with an address of 104 South Main Street, Greenville, South Carolina 29601 (together with its successors and assigns, the "Bank"), the principal amount of One Million Nine Hundred Twenty-Five Thousand Dollars and Zero Cents (\$1,925,000.00) on or before June 5, 2018 (the "Maturity Date"), as set forth below, together with interest from the date hereof on the unpaid principal balance from time to time outstanding until paid in full. The Borrower shall pay consecutive monthly installments as follows: A fixed payment of principal as specified in the attached amortization schedule, together with accrued interest on the principal amount of the loan as evidenced by this Note will be due on the 5th day of each month, subject to adjustment in accordance with the Following Business Day Convention (as hereinafter defined). The aggregate principal balance outstanding shall bear interest thereon as follows: The aggregate principal balance outstanding shall bear interest at a per annum rate equal to Two Percent (2.00%) above LIBOR (as hereinafter defined) for any Interest Period (as hereinafter defined). Adjustments to the interest rate shall become effective on the 5th day of each month (the "Reset Date"). The Bank shall not be required to notify Borrower of adjustments in said interest rate.

Business Day means a day (other than Saturday, Sunday, federal holiday, or a day on which commercial banks in New York are required or permitted to close) on which the Bank is open and conducting its customary banking transactions.

Interest Period means initially, the period commencing on the date of this Note and ending on the calendar date immediately preceding the first Reset Date, and thereafter each month period commencing on each Reset Date. If an Interest Period is to commence in a month for which there is no day which numerically corresponds to the Reset Date, the Interest Period will start on the last day of such month.

Notwithstanding anything to the contrary herein, payment dates shall be subject to adjustment in accordance with the Following Business Day Convention which means that any payment due date that would otherwise fall on a day that is not a Business Day shall be extended to the first following day that is a Business Day. Such extension of time will not be included in the calculation of interest due.

LIBOR (London Interbank Offered Rate) means the rate of interest (rounded upwards, at the Bank's option, to the next 100th of one percent) equal to the British Bankers' Association LIBOR ("BBA LIBOR") for the equivalent Interest Period as published by Bloomberg (or such other commercially available source providing quotations of BBA LIBOR as designated by Bank from time to time) at approximately 11:00 A.M. (London time) 2 London Banking Days prior to the Reset Date; provided however, if more than one BBA LIBOR is specified, the applicable rate shall be the arithmetic mean of all such rates. London Banking Days means any day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in London, England. If, for any reason, such rate is not available, the term LIBOR shall mean, with respect to any Interest Period, the rate of interest per annum determined by Bank to be the average rate per annum at which deposits in dollars are offered for such Interest Period by major banks in the London, England at approximately 11:00 A.M. (London time) 2 London Banking Days prior to the Reset Date.

Principal and interest shall be payable at the Bank's main office or at such other place as the

Loan Number - Redacted

(a) J. Harold Capps, Jr., DMD, PC shall furnish the following financial reports:

<u>Type of Report(s)</u>	<u>Frequency</u>	<u>Due Date</u>
Financial Statements - Management	Annually	150 days after end of fiscal year.
Tax Return	Annually	Within 150 days of the end of the Fiscal Year or such other date approved by the Bank.

In addition, J. Harold Capps, Jr., DMD, PC shall furnish to the Bank such other reports as shall be required in the loan documents.

(b) J. Harold Capps, Jr. shall furnish to the Bank within 150 days after the end of the prior calendar year and when requested, personal financial statements addressed to the Bank in form satisfactory to the Bank, and within 15 days after the date that Guarantor's tax returns are actually filed but in no event later than April 30th of each such year, with J. Harold Capps, Jr.'s filed Federal tax returns for the prior year. If on extension, due by month end of date in which due.

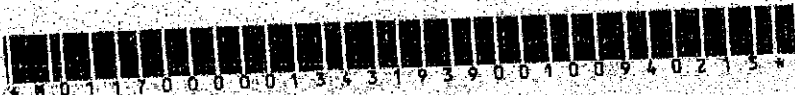
(c) Michelle D. Capps shall furnish to the Bank within 150 days after the end of the prior calendar year and when requested, personal financial statements addressed to the Bank in form satisfactory to the Bank, and within 15 days after the date that Guarantor's tax returns are actually filed but in no event later than April 30th of each such year, with Michelle D. Capps's filed Federal tax returns for the prior year. If on extension, due by month end of date in which due.

4. Financial Covenants.

J. Harold Capps, Jr., DMD, PC:

(a) Debt Service Coverage - Post Distributions. Borrower shall maintain a minimum Debt Service Coverage Ratio of not less than 1.30 to 1.00, to be tested annually.

(b) CAPEX Limit. Borrower shall not exceed \$100,000.00 in CAPEX expenses for any fiscal year without obtaining written consent from TD Bank.



LOAN DATA SHEET

Loan Number: *Redacted*
Officer Number: 3717
Closing Date: June 8, 2012
Loan Amount: \$1,925,000.00
Loan Class: New
Loan Type: Commercial
Comments: _____

BORROWER DATA:

J. Harold Capps, Jr., DMD, PC
Tax ID: 27-0104541
Relationship ID: 202163

ADDITIONAL LOAN INFORMATION:

1. Collateral. The following shall be given as collateral to secure the performance and payment of all obligations respecting the Credit Accommodations:

Personal Property

A first priority perfected security interest in all personal property of J. Harold Capps, Jr., DMD, PC, including without limitation all accounts, inventory, equipment, general intangibles, investment property, financial assets, documents, instruments, deposit accounts, letter of credit rights and chattel paper and all products and proceeds of the foregoing.

Collateral Assignment of Key Person Life Insurance

Collateral Assignment of at least \$1,300,000 Key Person Life Insurance on the life of J. Harold Capps, Jr.
Collateral Assignment of at least \$1,000,000 Key Person Life Insurance on the life of J. Harold Capps, Jr.

2. Guarantor(s)

J. Harold Capps, Jr. -- Unlimited Guaranty of all the obligations of J. Harold Capps, Jr., DMD, PC
Michelle D. Capps -- Unlimited Guaranty of all the obligations of J. Harold Capps, Jr., DMD, PC

3. Financial Reporting

AND (B) AGREE NOT TO SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CAN NOT BE, OR HAS NOT BEEN WAIVED. GUARANTOR CERTIFIES THAT NEITHER THE BANK NOR ANY OF ITS REPRESENTATIVES, AGENTS OR COUNSEL HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE BANK WOULD NOT IN THE EVENT OF ANY SUCH PROCEEDING SEEK TO ENFORCE THIS WAIVER OF RIGHT TO TRIAL BY JURY.

The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty (30) days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. **THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.**

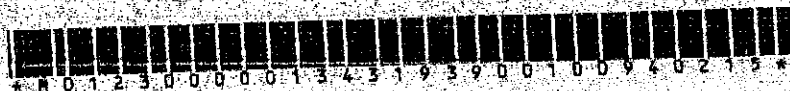
Executed as an instrument under seal and dated June 8, 2012.

Guarantor:

Michelle D. Capps, individually

Address: Redacted

Loan Number - Note 1: Redacted



UNLIMITED GUARANTY

TO: TD Bank, N.A., a National Association (the "Bank")

RE: J. Harold Capps, Jr., DMD, PC, a South Carolina corporation (the "Borrower")

To induce the Bank to make or continue to make loans, advances, or grant other financial accommodations to the Borrower, in consideration thereof and for loans, advances or financial accommodations heretofore or hereafter granted by the Bank to or for the account of the Borrower, the undersigned **Michelle D. Capps** (the "Guarantor") absolutely, unconditionally and irrevocably guarantees the full and punctual payment to the Bank of all sums which may be presently due and owing and of all sums which shall in the future become due and owing to the Bank from the Borrower, whether direct or indirect, whether as a borrower, guarantor, surety or otherwise, including, without limitation, interest, attorneys' fees and other amounts accruing after the filing of a petition in bankruptcy by or against Borrower, notwithstanding the discharge of Borrower from such obligations, together with all costs and expenses incurred by the Bank in connection with such obligations, this Unlimited Guaranty (this "Guaranty") and the enforcement thereof, and also guarantees the due performance by the Borrower of all its obligations under all other present and future contracts and agreements with the Bank, including, without limitation, all rate swap transactions, basis swaps, forward rate transactions, commodity swaps, commodity options, equity or equity index swaps, equity or equity index options, bond options, interest rate options, foreign exchange transactions, cap transactions, floor transactions, collar transactions, forward transactions, currency swap transactions, cross-currency rate swap transactions and currency options. This is a guaranty of payment and not collection.

Guarantor also agrees:

- (1) to indemnify and hold the Bank and its directors, officers, employees, agents and attorneys harmless from and against all claims, obligations, demands and liabilities, by whomsoever asserted, and against all losses in any way suffered, incurred or paid as a result of or in any way arising out of or following or consequential to transactions with the Borrower, except for any claim arising out of the gross negligence or willful misconduct of the Bank;
- (2) that this Guaranty shall not be impaired by any modification, supplement, extension, renewal or amendment of any contract or agreement to which the parties thereto may hereafter agree, nor by any modification, increase, release or other alteration of any of the obligations hereby guaranteed or of any security therefor, nor by any agreements or arrangements whatsoever with the Borrower or anyone else, all of which may be done without notice to or consent by the Guarantor;
- (3) that the liability of the Guarantor hereunder is direct and unconditional and due immediately upon default of the Borrower without demand or notice and without requiring the Bank first to resort to any other right, remedy or security;
- (4) that Guarantor shall have no right of subrogation, reimbursement or indemnity whatsoever until the Bank is indefeasibly paid in full, nor any right of recourse to security for the debts and obligations of the Borrower to the Bank;
- (5) that the liability of the Guarantor is unlimited and shall be joint and several with the liabilities of any other guarantors;

Loan Number - Redacted

Cappas v Cappas							
Schedule of Assets and Liabilities							
Debit balances							
Item	Title	Fair Market Value	Associated Debt	Equity	Husband	Wife	
A. CHECKING ACCOUNTS							
1	TD Bank #8139		Already Divided	Already Divided			
2	TD Bank #6072		Already Divided	Already Divided			
3	Crescent #8398				38	38	
	Total		38		38	38	
B. RETIREMENT ACCOUNTS							
1	Spending #04857	6,340		6,340	6,340		
2	Copco DMD 4814 (Fina Mercantile 401)	348,381		348,381	288,361	60,020	
3	Copco DMD 4814 (Fina Mercantile 401)	120,758		120,758		120,758	
4	ETrade #8807 Roth IRA	121		121		121	
5	ETrade #8477 Rollover IRA	2,270		2,270		2,270	
	Total	478,630		478,630	273,681	204,949	
C. BUSINESS INTEREST							
1	L. Harold Cappas, Jr., DMD, PC	221,658		221,658	221,658		
	Total	221,658		221,658	221,658		
D. LIFE INSURANCE - CASH VALUE							
1	Liberty National Term T20084834 FV \$1,300,000						
2	Liberty Term 200822027 FV \$1,000,000						
3	MSO Term Term RLS1723480 FV \$6,000,000						
4	Protective Life Term FLO765314 FV \$200,000						
	Total						
E. STOCKS & OTHER SECURITIES							
1	ETrade	3,000		3,000		3,000	
2	Hand Rock Partners	245		245	245		
	Total	3,245	0	3,245	245	3,000	
F. REAL ESTATE							
1	234 Chapel Ct, Myrtle Beach	875,000	\$14,381	860,619	860,619		
2	Overland Bank Equity Loan on Chapel	0	848,428	-848,428	(848,428)		
3	708 Jasmine, Myrtle Beach	230,000	118,000	112,000		112,000	
	Total	1,205,000	-1,376,810	-171,810	-486,810	112,000	
G. PERSONAL PROPERTY							
1	2005 Jet Ski For Boat, motor & trailer	8,243	0	8,243	8,243		
2	2012 Buick Encore	98,188	48,000	50,188		50,188	
3	2010 Ford F250 Ping Ranch	36,478	18,339	18,139	14,900	3,239	
4	Homestead Property	20,000		20,000	10,000	10,000	
5	Jeep	80,000		80,000		80,000	
6	Boat Case	2,000		2,000		2,000	
7	Boat	7,000		7,000	7,000		
	Total	167,909	66,339	101,570	36,143	65,427	
H. CREDIT CARDS & OTHER UNSECURED DEBT							
1	Resolving Debt on Overland Lot	0	82,047	-82,047		82,047	
2	Unpaid Income Taxes		25,800	-25,800		25,800	
	Total	2,084,891	1,732,186	352,705		107,847	
NET ESTATE							
Children's Accounts							
1	Prudential Funds #2191	4,907		4,907			
2	Prudential Funds #2098	4807		4,807			
3	Crescent #8398	512		512			
4	Crescent #8398	512		512			
5	Prudential Funds (Emily)	20,370		20,370			
6	Prudential Funds (Nancy)	21,828		21,828			

DCM - DOP -										
Updated: 6/28/14 (w)										
ITEM #	DESCRIPTION	TITLE	VALUE	DEBT	OTHER ADJUSTS	NET EQUITY	VALUE DATE	NOTES / SOURCE OF FUNDS	AGREED UPON DIVISION	
									HUSBAND	WIFE
a1	34 Chapel Circle, MB, SC		875,000	(814,381)		(488,810)	12/31/12	Value per Appraisal, Debt Per APRM13 statement		(488,810)
a2	Cres Com #2007 HEL			(549,429)				Debt Per APRM13 print out		
b	710 Jasmine, MB, SC		230,000	(115,000)		115,000	02/06/12	Per Husband, Head FAV and Debt Statement as of 1/23/12		115,000
10 OTHER PROPERTY:										
a	Marshall Property		20,000			20,000		Husband's Value	10,000	10,000
b	2012 Black Signature		30,188	(48,000)		(17,812)	02/21/13	Per KBB Private Party Value Debt per		
c	3016 Ford F250 King Ranch		84,473	(16,329)		68,144	02/21/13	12/21/12	14,980	3,000
d	Geni Car1		1,000			1,000	02/08/12	Estimate of Value		
e	2005 30' Seaform Boat, Motor & Trailer		6,243			6,243	02/21/13	Per MADA Average Low and Average Retail	6,243	
f	Jewelry	W	80,000			80,000		Per Husband's List		80,000
g	Stocks Mutual	H	7,000			7,000		Estimate of Value per Husband	7,000	
11 OTHER DEBTS:										
a	Boat Lot in Georgetown			(82,047)		(82,047)	02/09/12	Per Account Print out Debt left over on Short Sale	(82,047)	
b	IRS 2013			(25,800)		(25,800)		Estimated balance due because of interest subtracted payment	(25,800)	
TOTALS			2,100,394	(1,732,189)	(44,145)	332,460		Transfer of 401k Dollars to Wife by Husband	(80,000)	90,000
12 CHILDREN ACCOUNTS:										
a	Principal Funds #2191		4,907			4,907		Per Husband's Personal Financial Profile		
b	Principal Funds #2098		4,907			4,907		Per Husband's Personal Financial Profile		
c	CresCom #1998		812			812		Per Husband's Personal Financial Profile		
d	CresCom #1997		812			812		Per Husband's Personal Financial Profile		
e	Proposed Tuition (Cash/)		20,370			20,370	12/31/12	Per Statements Remaining Due is \$17,790		
f	Proposed Tuition (Cash/)		21,829			21,829	12/31/12	Per Statements Remaining Due is \$14,812		



dad >

Yesterday 12:50 PM

dad, I'm confused and scared because I just received an email from USC's bursar office saying that my current spring 2020 semester tuition funds had been withdrawn and there is a usage hold on my SCTPP account. my last final is may 5th, five days from now, and I am in jeopardy of losing credit for everything I've done. Ive called the sctpp office and they told me how you sent them a written letter on February 26 to put the usage hold on my account. how could u ever text me that on March 6 that you "hope I'm having a good second semester and school is going well" if you had just withdrawn the funds so that I would be kicked out of school? i would really appreciate it if you could remove the block from my account by contacting the sctpp office immediately so that I can still go to college and get credit for this semester. I have all a's right now for this semester. this type of stress in the middle of my finals and after everything going on is really hard

12:50 PM





dad

on my account. now could u ever text me that on March 6 that you "hope I'm having a good second semester and school is going well" if you had just withdrawn the funds so that I would be kicked out of school? i would really appreciate it if you could remove the block from my account by contacting the sctpp office immediately so that I can still go to college and get credit for this semester. I have all a's right now for this semester. this type of stress in the middle of my finals and after everything going on is really hard and i hope that you can understand that. could you please help me

12:50 PM

i have already exceeded my federal loan limit with what ive already taken out and i cannot take out a loan for this current semester because it has already past.

12:52 PM

i have no way to pay for it

12:52 PM

and restaurants arent open right now so i cant work

12:52 PM

Delivered



Student Benefit Details

Student Name:

Capps, Haley K

Student SSN:

xxx-xx-*Redacted*

Product:

4 Year College/University

Address:

PO Box 6888
Myrtle Beach, SC 29572-0003

Eligible:

No

Maturity Date:

8/1/2019

Account Number:

Redacted

Ineligibility Details

Account has a 'Usage Hold' Status

Available Benefits

Semesters

6.988

University of South Carolina - Columbia

Costs per Year

Estimated Cost of Attendance

\$32,065/yr

Tuition and fees	\$ 14,280
Housing and meals	12,114
Books and supplies	1,065
Transportation	1,740
Other education costs	276

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

MICHELLE DAVIS CAPPS,

Plaintiff(s),

v.

JOSEPH HAROLD CAPPS, JR.,

Defendant(s).

) IN THE FAMILY COURT
) FOR THE FIFTEENTH JUDICIAL
) CIRCUIT

) CASE NO: 2020-DR-26-1440

) **AFFIDAVIT OF MICHELLE DAVIS**
) **CAPPS IN SUPPORT OF MOTION**
) **FOR TEMPORARY RELIEF**

The affiant, after being duly sworn, deposes and says as follows:

1. I am the Plaintiff in this case and the ex-husband of the Defendant. We are the parents of two children, HKC, born May 11, 2001, and EHC, born April 11, 2003.
2. HKC is currently a sophomore at University of South Carolina.
3. HKC is making good progress at USC. A copy of her transcript showing her first year grades is attached hereto as Exhibit A. Her freshman year she received mostly A's and a few B+'s.
4. The expected parental contribution for HKC for the 2020-21 school year is \$21,711. See Exhibit B.
5. The Defendant has established a South Carolina Tuition Prepayment Program. Some documents I have demonstrating this are attached hereto as Exhibit C.
6. As per our July 22, 2014 final order of separate maintenance in case 2014-DR-26-1563, the Defendant agreed to be responsible for his listed debts. Two of those debts were the debts for our daughter's college education, specifically the funding of their pre-paid tuition plans. See July 22, 2014 final order.
7. I believe the Defendant has the ability to contribute towards HKC's 2020-21 school year

expenses. I believe he should be ordered to do so.

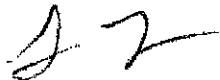
8. I further believe he should be required to reimburse me what I've paid USC so far for HKC's 2020-21 school year so far. I have paid for HKC's rent of \$1,398. See Exhibit D. I have paid HKC's parking pass of \$400. See Exhibit E. I have paid HKC's tuition of \$7,669. See Exhibit F. I would ask that he be required to reimburse me this \$9,467.
9. I have incurred attorney's fees and costs to bring this action. I believe the Defendant should pay those fees and costs.

FURTHER AFFIANT SAYETH NOT!


MICHELLE DAVIS CAPPS

Sworn and Subscribed before me

this 25th Day of Sept, 2020



NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 11/29/2022

Academic Transcript

Q84380345 Haley K. Capps
Sep 16, 2020 03:25 pm

This is not an official transcript. Courses which are in progress may also be included on this transcript.

Transfer Credit Institution Credit Transcript Totals Courses in Progress

Transcript Data

STUDENT INFORMATION

Name : Haley K. Capps
Birth Date: 11-MAY
Student Type: Continuing

Curriculum Information

Current Program

Degree: Bachelor of Arts
College: College of Arts and Sciences
Campus: USC Columbia
Major: Political Science
Major Concentration: No Concentration
Minor: Journalism/Mass Communications

Secondary

Degree: No Degree
College: Additional Major(s)
Campus: USC Columbia
Major: English

***Transcript type:ADVS Advising is NOT Official ***

TRANSFER CREDIT ACCEPTED BY INSTITUTION -Top-

Spring Advanced Placement Exam
2016:

Subject	Course	Title	Grade	Credit Hours	Quality Points	R		
GEOG	210	People, Places & Environments	CR	3.000		0.00		
			Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:			0.000	0.000	3.000	0.000	0.00	0.000

Gxh, b, + A

Unofficial Transcript

Spring 2017: Advanced Placement Exam

Subject	Course	Title	Grade	Credit Hours	Quality Points	R		
ENGL	101	Critical Reading & Composition	CR	3.000		0.00		
ENGL	102	Rhetoric and Composition	CR	3.000		0.00		
HIST	101	Eur Civ: Ancient -Mid 17th Cent	CR	3.000		0.00		
HIST	102	Eur Civ: From Mid 17th Century	CR	3.000		0.00		
			Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:			0.000	0.000	12.000	0.000	0.00	0.000

Unofficial Transcript

Spring 2018: Advanced Placement Exam

Subject	Course	Title	Grade	Credit Hours	Quality Points	R		
HIST	111	US History to 1865	CR	3.000		0.00		
HIST	112	US History since 1865	CR	3.000		0.00		
			Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:			0.000	0.000	6.000	0.000	0.00	0.000

Unofficial Transcript

Spring 2019: Advanced Placement Exam

Subject	Course	Title	Grade	Credit Hours	Quality Points	R		
ECON	221	Principles of Microeconomics	CR	3.000		0.00		
MATH	141	Calculus I	CR	4.000		0.00		
MATH	142	Calculus II	CR	4.000		0.00		
POLI	201	American National Government	CR	3.000		0.00		
			Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:			0.000	0.000	14.000	0.000	0.00	0.000

Unofficial Transcript

Fall 2017: Horry-Georgetown Tech Coll

Subject	Course	Title	Grade	Credit Hours	Quality Points	R		
SPAN	109	Beginning Spanish I	A_TR	4.000		0.00		
			Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA

	Hours	Hours	Hours	Hours	Points	
Current Term:	4.000	4.000	4.000	0.000	0.00	0.000

Unofficial Transcript

Spring 2018: Horry-Georgetown Tech Coll

Subject	Course	Title	Grade	Credit Hours	Quality Points	R	
MUSC	110	Introduction to Music	A_TR	3.000		0.00	
SPAN	110	Beginning Spanish II	A_TR	4.000		0.00	
		Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA

Current Term:	7.000	7.000	7.000	0.000	0.00	0.000
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Unofficial Transcript

Fall 2018: Horry-Georgetown Tech Coll

Subject	Course	Title	Grade	Credit Hours	Quality Points	R	
SPCH	140	Public Communication	A_TR	3.000		0.00	
		Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA

Current Term:	3.000	3.000	3.000	0.000	0.00	0.000
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Unofficial Transcript

INSTITUTION CREDIT -Top-

Term: Fall 2019

College: College of Arts and Sciences

Major: Political Science

Student Type: New Freshman

Academic Standing: Good Standing

Additional Standing: Dean's List

Subject	Course	Campus	Level	Title	Grade	Credit Hours	Quality Points	Start and End Dates	R	CEU Contact Hours
ENGL	287	USC Columbia	UG	American Literature	A	3.000	12.00			
POLI	101	USC Columbia	UG	Intro to Global Politics	B+	3.000	10.50			
SCHC	115	USC Columbia	UG	Descriptive Astronomy	A	4.000	16.00			
SCHC	115L	USC Columbia	UG	Descriptive Astronomy Lab	NG	0.000	0.00			
SCHC	321	USC Columbia	UG	HNRS: American Empire: Politics, Culture and Society	B+	3.000	10.50			
SCHC	391	USC Columbia	UG	Proseminar	A	2.000	6.00			

UNIV	101	USC Columbia	UG	HNRS: The Student in the University	A	3.000	12.00			
				Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA	
Current Term:				18.000	18.000	18.000	18.000	69.00	3.833	
Cumulative:				18.000	18.000	18.000	18.000	69.00	3.833	

Unofficial Transcript

Term: Spring 2020

College: College of Arts and Sciences
Major: Political Science
Student Type: Continuing
Academic Standing: Good Standing
Additional Standing: President's List/Dean's List

Subject	Course	Campus	Level	Title	Grade	Credit Hours	Quality Points	Start and End Dates	R	CEU Contact Hours
ENGL	288	USC Columbia	UG	English Literature	A	3.000	12.00			
ENGL	360	USC Columbia	UG	Creative Writing	A	3.000	12.00			
JOUR	291	USC Columbia	UG	HNRS: Writing for Mass Communications	A	3.000	12.00			
POLI	437	USC Columbia	UG	Int'l Relations of Latin Amer	A	3.000	12.00			
POLI	483	USC Columbia	UG	Middle East Politics	A	3.000	12.00			

				Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Current Term:				15.000	15.000	15.000	15.000	60.00	4.000
Cumulative:				33.000	33.000	33.000	33.000	129.00	3.909

Unofficial Transcript

Term: Summer 2020

College: College of Arts and Sciences
Major: Political Science
Student Type: Continuing
Academic Standing: Good Standing
Last Academic Standing: Good Standing

Subject	Course	Campus	Level	Title	Grade	Credit Hours	Quality Points	Start and End Dates	R	CEU Contact Hours
JOUR	101	USC Columbia	UG	Media and Society	A	3.000	12.00			
SPAN	122	USC Columbia	UG	Basic Proficiency in Spanish	A	3.000	12.00			

				Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
--	--	--	--	------------------	-----------------	-----------------	--------------	-------------------	-----

Current Terms:	6.000	6.000	6.000	6.000	24.00	4.000
Cumulative:	39.000	39.000	39.000	39.000	153.00	3.923

Unofficial Transcript

TRANSCRIPT TOTALS (UNDERGRADUATE) -Top-

	Attempt Hours	Passed Hours	Earned Hours	GPA Hours	Quality Points	GPA
Total Institution:	39.000	39.000	39.000	39.000	153.00	3.923
Total Transfer:	14.000	14.000	14.000	0.000	0.00	0.000
Overall:	53.000	53.000	53.000	39.000	153.00	3.923

Unofficial Transcript

COURSES IN PROGRESS -Top-

Term: Fall 2020

College: College of Arts and Sciences

Major: Political Science

Student Type: Continuing

Subject	Course	Campus	Level	Title	Credit Hours	Start and End Dates
ENGL	387	USC Columbia	UG	Introduction to Rhetoric	3.000	
ENVR	101	USC Columbia	UG	Intro to the Environment	3.000	
ENVR	101L	USC Columbia	UG	Intro to the Environment Lab	1.000	
POLI	363	USC Columbia	UG	Southern Politics	3.000	
SCHC	392	USC Columbia	UG	HNRS: Podcasting in the Public Interest: Addressing Food Insecurity in SC	3.000	
SCHC	450	USC Columbia	UG	HNRS: Hawthorne and Henry James: Gender, Romance and Realism	3.000	

Unofficial Transcript

Financial Aid Eligibility Menu

University of South Carolina - Columbia

Haley Kathryn Capps, Q84380345

Expected Family Contribution

Based on FAFSA	\$21,711 / yr
As calculated by the institution using information reported on the FAFSA or to your institution.	
Based on Institutional Methodology	/ yr
Used by most private institutions in addition to FAFSA.	

Total Cost of Attendance 2020-2021

	On Campus Residence	Off Campus Residence
Tuition and fees	\$14,263	
Housing and meals		\$10,092
Books and supplies	\$1,250	
Transportation	\$2,118	
Other education costs	\$3,400	
Estimated Cost of Attendance		\$31,123 / yr

Scholarship and Grant Options

Scholarships and Grants are considered "Gift" aid - no repayment is needed.

Scholarships

Merit-Based Scholarships

Scholarships from your school	\$5,000
Scholarships from your state	\$7,500
Other scholarships	\$0
Employer Paid Tuition Benefits	N/A
Total Scholarships	\$12,500 / yr

Grants

Need-Based Grant Aid

Federal Pell Grants	\$0
Institutional Grants	\$0
State Grants	\$0
Other forms of grant aid	\$0
Total Grants	\$0 / yr

College Costs You Will Be Required to Pay

Net Costs	\$18,623 / yr
(Cost of attendance minus total grants and scholarships)	

Loan and Work Options to Pay the Net Costs to You

You must repay loans, plus interest and fees.

Loan Options*

Federal Direct Subsidized Loan (0% interest rate)	\$0 / yr
Federal Direct Unsubsidized Loan (2.75% interest rate)	\$6,500 / yr
Private Loan (N/A)	\$0 / yr
Institutional Loan (N/A)	\$0 / yr
Other Aid That Must Be Repaid	\$0 / yr
<i>In addition to the loans above, parents may also apply for the following:</i>	
Parent Plus Federal Loan (0% interest rate)	\$0 / yr

Work Options

Work-study (Federal, state, or institutional)	\$0 / yr
Hours Per Week	0 / wk
Other Campus Job	N/A
Total Work Options	\$0 / yr

For More Information

University of South Carolina - Columbia
 1244 Blossom Street, Suite 200
 Columbia, SC 29208
 Telephone: (803) 777-8134
 E-mail: uscfaid@sc.edu

resub it B

Total Loan Options

\$6,500 / yr

* Loan Amounts

Note that the amounts listed are the maximum available to you? you are allowed and encouraged to borrow less than the maximum amount. To learn about loan repayment choices and work out your Federal Loan monthly payment, go to:
<https://studentaid.ed.gov/repay-loans/understand/plans>.

Other Potential Education Benefits

- **American Opportunity Tax Credit:** Parents or students may qualify to receive up to \$2,500 by claiming the American Opportunity Tax Credit on their tax return during the following calendar year.
- **Military and/or National Service Benefits**

Next steps

Customized Information from University of South Carolina - Columbia

If you have a Federal Direct Unsubsidized Loan and are a graduate or professional student, the interest rate on that unsubsidized loan is currently 4.3%.

Glossary

Cost of Attendance (COA): The total amount (not including grants and scholarships) that it will cost you to go to school during the 2020-21 school year. COA includes tuition and fees; housing and meals; and allowances for books, supplies, transportation, loan fees, and dependent care. It also includes miscellaneous and personal expenses, such as an allowance for the rental or purchase of a personal computer; costs related to a disability; and reasonable costs for eligible study-abroad programs. For students attending less than half-time, the COA includes tuition and fees; an allowance for books, supplies, and transportation; and dependent care expenses.

Expected Family Contribution: A number used by your school to calculate the amount of federal student aid you are eligible to receive. It is based on the financial information provided in your Free Application for Federal student Aid (FAFSA). This is not the amount of money your family will have to pay for college, nor is it the amount of federal student aid you will receive.

Federal Work-Study: A federal student aid program that provides part-time employment while the student is enrolled in school to help pay his or her education expenses. The student must seek out and apply for work-study jobs at his or her school. The student will be paid directly for the hours he or she works and the amount he or she earns cannot exceed the total amount awarded by the school for the award year. The availability of work-study jobs varies by school.

Grants and Scholarships: Student aid funds that do not have to be repaid. Grants are often need-based, while scholarships are usually merit-based. Occasionally you might have to pay back part or all of a grant if, for example, you withdraw from school before finishing a semester.

Loans: Borrowed money that must be repaid with interest. Loans from the federal government typically have a lower interest rate than loans from private lenders. Federal loans, listed from most advantageous to least advantageous, are called Direct Subsidized Loans, Direct Unsubsidized Loans, and Parent PLUS Loans. You can find more information about federal loans at StudentAid.gov.

Direct Subsidized Loan: Loans that The U.S. Department of Education pays the interest on while you're in school at least half-time, for the first six months after you leave school (referred to as a grace period), and during a period of deferment (a postponement of loan payments).

Direct Unsubsidized Loan: Loans that the borrower is responsible for paying the interest on during all periods. If you choose not to pay the interest while you are in school and during grace periods and deferment or forbearance periods, your interest will accrue (accumulate) and be capitalized (that is, your interest will be added to the principal amount of your loan).

Parent Plus Loan: A loan available to the parents of dependent undergraduate students for which the borrower is fully responsible for paying the interest regardless of the loan status.

Private Loan: A nonfederal loan made by a lender such as a bank, credit union, state agency, or school.

Net Cost: An estimate of the actual cost that a student and his or her family need to pay in a given year to cover education expenses for the student to attend a particular school. Net price is determined by taking the institution's cost of attendance and subtracting any grants and scholarships for which the student may be eligible.

For more information visit <https://studentaid.gov>.

STATE OF SOUTH CAROLINA
OFFICE OF STATE TREASURER

GRADY L. PATTERSON, JR.
STATE TREASURER



P.O. DRAWER 11778
COLUMBIA, SC 29211
TEL. (803) 734-2101

118 WADE HAMPTON OFFICE BUILDING
COLUMBIA, SC 29201

January 19, 2004

Joseph H. Capps, Jr.
705 Jasmine Avenue
Myrtle Beach, SC 29577

Beneficiary Name: Haley K. Capps
Account Number: 5030097775

Dear Joseph Capps:

Welcome to the South Carolina Tuition Prepayment Program! Your application has been processed, and your beneficiary is now a qualified participant in the Program. We appreciate your participation and are eager to assist you in prepaying for your beneficiary's college tuition.

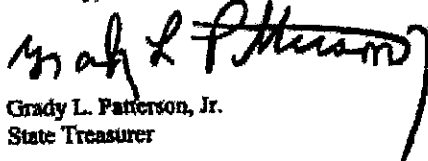
Your enrollment package is enclosed. It includes the Program Master Agreement, your customized Payment Schedule, and your beneficiary's Certificate of Enrollment. The Master Agreement, Payment Schedule, and your enrollment form comprise your contract with the South Carolina Tuition Prepayment Program. If the Payment Schedule does not accurately reflect the information you selected on the enrollment form, including any down payment amount you may have chosen to mail in with your enrollment form, please call the program office IMMEDIATELY at 1-888-772-4723, extension 1.

If on your enrollment form you selected to pay by lump sum, an invoice will be mailed to you prior to the payment due date of March 1, 2004. If you chose to make monthly payments and submitted a completed Automatic Withdrawal Authorization form prior to January 15, 2004, you will receive a letter from us stating that withdrawals from your bank account will begin on March 1, 2004. The automatic withdrawals in the amount of your contracted monthly payment will continue thereafter on the first day of each month until your account is paid in full. If your Automatic Withdrawal Authorization form was received after January 15th or you selected to make monthly payments using coupons, you will receive a coupon book prior to your first payment due date of March 1, 2004. In order to avoid a late payment penalty, your lump sum payment or your first monthly payment must reach us by the due date of March 1, 2004, regardless of whether or not your automatic withdrawals have been established or you have received your invoice or coupon book.

Any request to change the Payment Schedule from your original selection on the enrollment form must be made in writing to the Program office and received prior to the first payment due date. A change in your Payment Schedule after March 1, 2004, is subject to approval and will require a processing fee. Please refer to the Program Master Agreement for details on making other changes to your account.

We congratulate you on taking this step toward providing a valuable education for your beneficiary. Thank you for your participation in the South Carolina Tuition Prepayment Program.

Sincerely,


Grady L. Patterson, Jr.
State Treasurer

STATE OF SOUTH CAROLINA

OFFICE OF STATE TREASURER

GRADY L. PATTERSON, JR.
STATE TREASURER



P.O. DRAWER 11778
COLUMBIA, SC 29211
TEL. (803) 734-2101

118 WADE HAMPTON OFFICE BUILDING
COLUMBIA, SC 29201

January 19, 2004

PAYMENT SCHEDULE Fall 2003 ENROLLMENT

Plan Information

Joseph H. Capps, Jr
705 Jasmine Avenue
Myrtle Beach, SC 29577

Beneficiary Information

SCTPP Account Number:

Redacted

Haley K. Capps
705 Jasmine Avenue
Myrtle Beach, SC 29577

Birth Date:
Social Security Number:
Projected Enrollment Year:

*(Redacted
Redacted
2019*

Payment Information

Tuition Prepayment Contract:
Payment Option:
Payment Amount:
Number of Payments:

4 Year College/University
Custom Monthly
\$189.79
185

SCTPP Tuition Prepayment Program

Joseph H. Capps, Jr
Redacted

Visit www.sctpp.sc.gov for online account access.

Purchaser E-mail: [not on file]

ANNUAL STATEMENT OF ACCOUNT

Statement Date: December 31, 2008

Please review and notify us in writing of any changes. All requests must be signed by the Contributor.

This statement includes active contracts with benefits remaining.

ACCOUNT # 0150097100 BENEFIARY: Joseph H. Capps		
Beneficiary Mailing Address: Redacted	Contract Financial Summary: Purchase Price: \$36,035.29 Payments Received: \$11,878.74 Early Payoff Discount: \$0.00 Balance Remaining: \$26,156.55	Fee Information: Actuarial Fees Due: \$0.00 Late Fees Due: \$0.00 NSF Fees Due: \$0.00 Other Administrative Fees Due: \$0.00 Total Fees Due: \$0.00
Projected College Entrance Year: 2021 Product Type: 4 Year College/University Payment Option: Custom Monthly	Benefits Available: University Semesters: 8.000	*Contributions for Tax Year 2008: \$2,097.72 **FAPSA Reporting Value: \$12,115.80

ACCOUNT # 0150097100 BENEFIARY: Joseph H. Capps		
Beneficiary Mailing Address: Redacted	Contract Financial Summary: Purchase Price: \$36,611.15 Payments Received: \$12,819.26 Early Payoff Discount: \$0.00 Balance Remaining: \$23,791.89	Fee Information: Actuarial Fees Due: \$0.00 Late Fees Due: \$0.00 NSF Fees Due: \$0.00 Other Administrative Fees Due: \$0.00 Total Fees Due: \$0.00
Projected College Entrance Year: 2019 Product Type: 4 Year College/University Payment Option: Custom Monthly	Benefits Available: University Semesters: 8.000	*Contributions for Tax Year 2008: \$2,277.48 **FAPSA Reporting Value: \$13,094.73

ACCOUNT TOTALS		
Contract Financial Summary: Purchase Price Total: \$74,646.44 Payments Received Total: \$24,698.00 Early Payoff Discount Total: \$0.00 Balance Remaining Total: \$49,948.44	Summary of Fees Due: Actuarial Fees: \$0.00 Late Fees: \$0.00 NSF Fees: \$0.00 Other Administrative Fees: \$0.00 Total Fees: \$0.00	*Contributions for Tax Year 2008: \$4,375.20 **FAPSA Reporting Value: \$25,210.53

Before contract benefits can be utilized, all outstanding balances and administrative fees must be paid in full and a valid Social Security Number must be on file for your beneficiary.

For a payoff amount, please access your account online using the "My Account" link at www.scgrad.org, or call toll-free 1-888-772-4723 (in Columbia, dial 737-2033) and select option 1.

*This total is the sum of all payments (excluding any fees and applicable early payoff discount) credited to SCTPP account(s) on or after January 1, 2008 and prior to January 1, 2009 (as allowable by South Carolina Code of Laws of 1976, as amended, Section 59-4-100). You may be eligible to claim this amount as a State tax deduction on Line 43 of the SC 1040 Long Form and on line 38 on the Schedule NR. Any questions about your eligibility for this State tax deduction should be directed to your financial planner, CPA, or the SC Department of Revenue. SCTPP staff cannot provide tax advice.

**The FAPSA value represents your SCTPP account(s) "refund value" as of the statement date. New law requires the refund value of 529 state prepaid plans to be reported as parental assets on the Free Application for Federal Student Aid (FAFSA). Go to www.FAFSA.ed.gov/fera.htm for further instructions.

If the account Contributor does not write to SCTPP at the address below to object to this statement within 60 days after it is sent, the Contributor will be considered to have approved it and to have released the Treasurer, the State of South Carolina, and all service providers to SCTPP from all responsibilities for matters covered by this statement.

STATE OF South Carolina

TUITION PREPAYMENT PROGRAM

CERTIFICATE OF ENROLLMENT

It is hereby certified that

Joseph H. Capps, Jr

has met all of the 2003 application requirements of the
State of South Carolina Tuition Prepayment Program
and has duly established the cost of tuition and mandatory fees for
4 Years at any Palmetto State public college or university on behalf of

Haley K. Capps



Andy L. P... ..
Andy L. P..., Jr.
State Treasurer



STATE OF SOUTH CAROLINA
OFFICE OF STATE TREASURER



GRADY L. PATTERSON, JR.
STATE TREASURER

P.O. DRAWER 11778
COLUMBIA, SC 29211
TEL. (803) 734-2101

118 WADE HAMPTON OFFICE BUILDING
COLUMBIA, SC 29201

January 19, 2004

Joseph H. Capps, Jr
705 Jasmine Avenue
Myrtle Beach, SC 29577

Beneficiary Name:
Account Number:

Emily H. Capps
Redacted

Dear Joseph Capps:

Welcome to the South Carolina Tuition Prepayment Program! Your application has been processed, and your beneficiary is now a qualified participant in the Program. We appreciate your participation and are eager to assist you in prepaying for your beneficiary's college tuition.

Your enrollment package is enclosed. It includes the Program Master Agreement, your customized Payment Schedule, and your beneficiary's Certificate of Enrollment. The Master Agreement, Payment Schedule, and your enrollment form comprise your contract with the South Carolina Tuition Prepayment Program. If the Payment Schedule does not accurately reflect the information you selected on the enrollment form, including any down payment amount you may have chosen to mail in with your enrollment form, please call the program office IMMEDIATELY at 1-888-772-4723, extension 1.

If on your enrollment form you selected to pay by lump sum, an invoice will be mailed to you prior to the payment due date of March 1, 2004. If you chose to make monthly payments and submitted a completed Automatic Withdrawal Authorization form prior to January 15, 2004, you will receive a letter from us stating that withdrawals from your bank account will begin on March 1, 2004. The automatic withdrawals in the amount of your contracted monthly payment will continue thereafter on the first day of each month until your account is paid in full. If your Automatic Withdrawal Authorization form was received after January 15th or you selected to make monthly payments using coupons, you will receive a coupon book prior to your first payment due date of March 1, 2004. In order to avoid a late payment penalty, your lump sum payment or your first monthly payment must reach us by the due date of March 1, 2004, regardless of whether or not your automatic withdrawals have been established or you have received your invoice or coupon book.

Any request to change the Payment Schedule from your original selection on the enrollment form must be made in writing to the Program office and received prior to the first payment due date. A change in your Payment Schedule after March 1, 2004, is subject to approval and will require a processing fee. Please refer to the Program Master Agreement for details on making other changes to your account.

We congratulate you on taking this step toward providing a valuable education for your beneficiary. Thank you for your participation in the South Carolina Tuition Prepayment Program.

Sincerely,

Grady L. Patterson, Jr.
State Treasurer

STATE OF SOUTH CAROLINA
OFFICE OF STATE TREASURER

GRADY L. PATTERSON, JR.
STATE TREASURER



P.O. DRAWER 11778
COLUMBIA, SC 29211
TEL. (803) 734-2101

118 WADE HAMPTON OFFICE BUILDING
COLUMBIA, SC 29201

January 19, 2004

PAYMENT SCHEDULE
Fall 2003 ENROLLMENT

Plan Information

Joseph H. Capps, Jr

Beneficiary Information

SCITPP Account Number:

Redacted

Emily H. Capps

Birth Date:
Social Security Number:
Projected Enrollment Year:

Redacted
Redacted
2021

Payment Information

Tuition Prepayment Contract:
Payment Option:
Payment Amount:
Number of Payments:

4 Year College/University
Custom Monthly
\$174.81
209

STATE OF South Carolina

TUITION PREPAYMENT PROGRAM

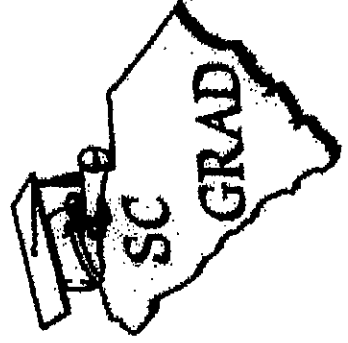
CERTIFICATE OF ENROLLMENT

It is hereby certified that

Joseph H. Capps, Jr

has met all of the 2003 application requirements of the
State of South Carolina Tuition Prepayment Program
and has duly established the cost of tuition and mandatory fees for
4 Years at any Palmetto State public college or university on behalf of

Emily H. Capps



Emily L. Patterson, Jr.
Emily L. Patterson, Jr.
State Treasurer

From: live@[redacted]columbia.com
Subject: Payment Confirmation for Michelle Capps for [redacted] at Columbia
Date: September 3, 2020 at 12:35 PM
To: mdaviacapps@gmail.com



Payment Receipt

[https://\[redacted\].residentportal.com/](https://[redacted].residentportal.com/)

AUTHORIZATION CODE

Redacted

[redacted] at Columbia

Michelle Capps

Unit: - [redacted]

PAYMENT TYPE

eCheck x1681

Redacted

PAYMENT NUMBER

Redacted

PAYMENT DATE

Sep 03, 2020 12:35 PM EDT

PURCHASE SUMMARY

Payment Amount

\$624.00

Memo: September Rent

Shown on Statement as: [redacted] Columbia

This payment was processed by Entrata, Inc. on behalf of The [redacted] Columbia.

CHARGES PAID

Date

Sep 01, 2020

Description

RENT

Amount

\$579.00

Amount Paid

\$579.00

Exhibit D

Date	Sep 01, 2020
Description	UTILAMEN
Amount	\$45.00
Amount Paid	\$45.00

Total	\$624.00
-------	---------------------

Click [here](#) to login Resident Portal

Contact [REDACTED] at Columbia at [REDACTED] for refund policy.

Please retain for your records.



rp ResidentPortal
Pay rent with your voice.
Don't let paying rent slow you down.

 App Store
 Google Play

Is this email not displaying correctly?
[View it in your browser](#)

You are receiving this email because you have opted to receive notifications via email.

[Unsubscribe](#)

Here is your payment receipt:

Name: Michelle Davis Capps

Payment Amount:

Payment #: 1452287414

Payment Type: eCheck

Payment Date: 02:12 pm EDT on 08/01/2020

Property: [REDACTED]

Unit #: [REDACTED]

Appears On Statement	Payment Amount	Convenience Fee Amount
[REDACTED]	\$774.00	\$0.00

Thank you for your payment. Please retain this receipt for your records.



Payments

Balance Due \$0.00

- 09/03/2020

\$624.00

\$0.00

- 09/01/2020

Utility/amenity Fee

\$45.00

\$624.00

- 09/01/2020

Housing Installment Rate

\$579.00

\$579.00

- 08/01/2020

\$774.00

\$0.00

• 08/01/2020

Housing Installment Rate

\$579.00

\$774.00

• 08/01/2020

Utility/amenity Fee

\$45.00

\$195.00

• 07/24/2020

Starting Balance

\$150.00

\$150.00

Due to COVID-19, ALL parking permits for the fall semester WILL BE MAILED to the address that you select. Permits WILL NOT be sold in our office. Please allow enough time to receive your mailed permit before you return to campus.

Payment Receipt

Your transaction is complete. Please print the page for your records.

Purchased Items

Qty	Type	Description	Amount
1	Permit	BG - Blossom St Garage Student / Fall Semester (121BG0363) (08/16/2020 - 12/31/2020) Valid for dates: 08/16/2020 - 12/31/2020 Item will be mailed to: USC STUDENT BOX [REDACTED] 1400 Greene St Columbia, SC 29226-0112 Valid for vehicles: NPL77B, 2015, Jeep	\$400.00

Total Paid: \$400.00

Transaction Summary


CC Receipt Number 20200805000238
 Payment Method Visa
 Payment Date 08/05/2020 10:33:29 PM

1501 Pendleton Street, Columbia, SC 29208 • 803-777-5160 • parking@mailbox.sc.edu (mailto:parking@mailbox.sc.edu) © University of South Carolina Board of Trustees

Handwritten signature or initials: *or L13 + E*

QB4380345 Haley K. Capps
Jul 17, 2020 02:59 pm


**Billing Statement as of Jul
17, 2020**

 Review detail transactions on your account, including current and future balance totals for the selected term and other terms.

To print your bill, please choose print from your browser. Print > Page Setup and check the box next to "Print Images and Backgrounds" in order to print images. Recommended browsers are: Firefox and Safari.

202008 Fall 2020 Print Term Detail

Description	Item Date	Charge	Payment	Balance
COL Honors College Prog Fee		\$575.00		
COL UG Proof of Insurance		\$1,014.00		
COL Technology Fee		\$200.00		
COL Environment Lab Fee		\$210.00		
COL UG Resident Tuition		\$6,144.00		
		Net Term Balance	\$8,143.00	
		Net Balance for Other Terms:	\$0.00	
		Account Balance:	\$8,143.00	

 Review Authorized Financial Aid on your account and the expected payment for the selected term. To view financial aid for another term, choose the "Select Another Term" link at the bottom of the page.

Authorized Financial Aid as of Jul 17, 2020


Description	Expected Payment	Balance
SC Palmetto Fellows Schlp		\$3,750.00
Deans Scholarship		\$1,500.00
SC Honors College Scholarship		\$500.00
PRESIDENTIAL Scholars Schlp		\$500.00
	Authorized Financial Aid Balance:	-\$6,250.00
	Account Balance net of Authorized Financial Aid:	\$1,893.00

Exhibit F

Q84380345 Haley K. Capps
Jul 17, 2020 02:59 pm

**Billing Statement as of Jul
17, 2020**


Print Only (Returns Statement)

 Review detail transactions on your account, including current and future balance totals for the selected term and other terms.

To print your bill, please choose print from your browser. Print > Page Setup and check the box next to "Print Images and Backgrounds" in order to print images. Recommended browsers are: Firefox and Safari.


202005 Summer 2020 Print Term Detail

Description	Item Data	Charge	Payment	Balance
COL Technology Fee		\$102.00		
COL Language Lab Fee		\$130.00		
COL UG Resident Tuition		\$3,072.00		
Web Echeck			\$1,325.00	
COL 529 Savings Plan Payment			\$8,344.00	
Fed Direct Unsubsidized Loan			\$1,979.00	
	Net Term Balance			-\$8,344.00
	Net Balance for Other Terms:			\$14,487.00
	Account Balance:			\$8,143.00

 No Authorized Financial Aid exists on your record for the selected term. Click here to find out more information

Authorized Financial Aid as of Jul 17, 2020

Account Balance net of Authorized Financial Aid: \$8,143.00

 No pending transactions exist on your record for the selected term.

Select Another Term

COPY

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE FAMILY COURT FOR THE
FIFTEENTH JUDICIAL CIRCUIT
Case Number: 2020-DR-26-1440

Michelle Davis Capps,)
Plaintiff,)

SUMMONS

-vs-)

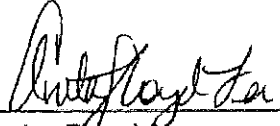
Joseph Harold Capps, Jr.,)
Defendant.)

FILED
2020 SEP 24 11:00 AM
CLERK OF COURT

TO: PLAINTIFF ABOVE-NAMED AND HER ATTORNEY GREGORY FORMAN:

YOU ARE HEREBY SUMMONED and required to respond to the Answer and Counterclaim a copy of which is hereby served upon you and to serve a copy of your response on the subscriber at her address, Anita Floyd Lee, 1115 Third Avenue, Conway, South Carolina, 29526, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Answer and Counterclaim within the time aforesaid, the Defendant in this action will apply to the Court for the relief demanded in the Answer and Counterclaim.

ATTORNEY FOR DEFENDANT


Anita Floyd Lee
Bar No. 2044
1115 Third Avenue
Conway, SC 29526
Telephone: (843) 248-3206
Facsimile: (843) 248-7173
E-mail: afloyd@anitafloydllaw.com

September 24, 2020

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE FAMILY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
Case Number: 2020-DR-26-1440

Michelle Davis Capps,)
Plaintiff,)

ANSWER AND COUNTERCLAIM

-vs-)

Joseph Harold Capps, Jr.,)
Defendant.)

TO: PLAINTIFF ABOVE NAMED AND HER ATTORNEY GREGORY S. FORMAN:

DEFENDANT WOULD RESPOND TO PLAINTIFF'S COMPLAINT AS FOLLOWS:

Response to Complaint

1. Defendant denies all allegations contained in Plaintiff's Complaint except as are hereinafter admitted, qualified or otherwise explained.
2. Defendant admits the allegations contained in paragraphs 1 and 2 of Plaintiff's complaint.
3. Regarding the allegations contained in paragraph 3 of Plaintiff's Complaint, Defendant admits that the parties are divorced from one another and that they have two children together: HK, who is legally emancipated, and E, who is 17 years of age.
4. Defendant has no knowledge, information or belief regarding the allegations contained in paragraph 4, though he admits that HK was planning on attending college in 2019-2020 and he has no reason to doubt that she has returned to college.
5. Regarding the allegations contained in paragraph 5 of Plaintiff's Complaint, Defendant would show that E is a senior in high school.
6. Defendant admits the allegations contained in paragraphs 6 and 7 of Plaintiff's Complaint.
7. Defendant denied the allegations contained in paragraph 8 of Plaintiff's Complaint.
8. Defendant admits the allegations contained in paragraph 9 of Plaintiff's Complaint, though with limitations.
9. Defendant denies the allegations contained in paragraph 10 of Plaintiff's Complaint.

2020 SEP 27 11:00 AM
 FILED
 CLERK OF COURT
 FIFTEENTH JUDICIAL CIRCUIT
 COLUMBIA, SOUTH CAROLINA

10. Defendant has no knowledge, information of belief regarding the allegations contained in paragraph 11 of Plaintiff's Complaint.
11. Defendant adamantly denies the allegations contained in paragraph 12 of Plaintiff's Complaint.

AND FOR A COUNTERCLAIM

Reiteration

12. Defendant reiterates each and every allegation contained hereinabove the same as if repeated verbatim herein.

Emancipation

13. Defendant prays for an order emancipating the parties' youngest daughter E. In support of his request, he would show the following:

- a. Defendant was awarded *ex parte* custody of this child on about June 17, 2019; and that order was ratified later that same month. From that time until March, Defendant and E worked on their relationship and it improved dramatically. However, in March, 2020, Defendant allowed the minor child to quarantine for two weeks with Plaintiff based upon the contact he had had with patients. At the conclusion of the quarantine, the minor child refused to return home. Further, Plaintiff has indicated an inability to force E to return to Defendant's household.
- b. A prior Order of this Court provides that "Father shall participate in counseling with Tamara Willard and the minor child as Tamara Willard requests and the focus of that counseling shall be mending the relationship with him and [E]".
[See page 5, paragraph 6 of Order dated September 24, 2019, case number: 2019-DR-26-1431, copy attached as **EXHIBIT "A"**].
E is aware of this order though she has refused to attend counseling despite requests of both Defendant and Tamara Willard [See **EXHIBIT "B"**].
- c. E refuses to abide by any of Defendant's requests or demands, though she feels empowered to speak to Defendant with disrespect and disdain. She dictates what she will and what she will not do; she demands concessions for anything that is requested of her, and thus far the only request made of her was to (i) return home, which she refused; and (ii) attend counseling, which she has refused to do [See **EXHIBIT "C"**].
- d. As is evident from the exhibit "C", E has accused Defendant of unconscionable behavior, and none of what she expressed is accurate, as is easily verified by the various counselors who have been involved in this matter; however, the tone and content express Es belief that she is an adult.

- e. After a RTSC hearing on July 6, 2020, E returned to Defendant's home with 3 empty bags and collected clothes and other items which had been left at Defendant's home, though she has claimed directly and through Plaintiff that when she went to Plaintiff's home in March, she took all of her clothes with her.
- f. E demanded a new phone and has accused Defendant of having "spyware" on her phone (Defendant had 360 on her phone so that he would know where she was). E purchased a new phone and she has refused to provide Defendant with a telephone number.
- g. Most recently, E. has removed Defendant from the school portal which enabled him to see her grades as well as her testing scores.

14. Regardless of the alienation issues, E is now 17 years of age and she clearly believes she is on parity with Defendant. She has falsely accused Defendant of "gaslighting" her with Ken Smith, though this is easily refuted. She has refused to attend counseling, and she conditions everything that is requested of her by Defendant upon something she desires financially or personally.

15. The relationship between Defendant and E plummeted when E returned to the toxic environment offered by Plaintiff. In fact, Plaintiff's continued alienation is evidenced by her emails with HK [See EXHIBIT "D"] and by her instituting this action. However, E has chosen to take the role of an adult, and she should thus enjoy the burdens as well as the benefits of adulthood.

16. Accordingly, for the reasons noted herein and as will be presented at the trial of this matter, Defendant prays for an Order emancipating E so that she will not be tethered to the burdens of a father/child relationship. He prays for this relief *pendente lite* and permanently.

17. Upon information and belief, in the event the minor child is deemed not to be a candidate for emancipation, then in that event, Defendant prays for an Order holding Plaintiff fully accountable for the minor child not returning to the home of the custodial parent, especially given the language of the current Order which basically *prohibits* Plaintiff from having unsupervised contact with the child absent the consent of the professionals.

Life Insurance

18. Currently, Plaintiff has the ability to maintain life insurance on Defendant for up to \$2,000,000. However, Plaintiff's hatred is evidenced through her alienation tactics, and Defendant is concerned for his life as long as Plaintiff is able to benefit to the current extent provided.
19. At the time of the parties' divorce, Defendant was extremely generous to Plaintiff in the hopes that Plaintiff would co-parent with him in a positive manner. However, Plaintiff has fully alienated the parties' children, and their hatred of him and their vitriol toward him are nothing more than them parroting their mother.
20. Upon information and belief, Plaintiff's mental health has been on a downward spiral since the parties' divorce, and upon information and belief these issues are a substantial and material change of circumstances which would enable this Honorable Court to review and modify the amount of life insurance which Plaintiff can receive as a result of Defendant's demise.
21. Upon further information and belief, the failure to modify this provision could result in Defendant's untimely demise, as a result of which he prays for an order modifying the amount of life insurance Plaintiff can receive at Defendant's death to an amount which will protect her only to the extent of the funds she currently receives. Defendant prays for this relief *pendente lite* and permanently.

Attorney's Fees

22. Defendant would show that this action should never have been filed. Repeatedly, Defendant has expressed that college funds will be discussed between him and the children. However, the children have refused to attend counseling, which is desperately needed in order to address the alienation which has been noted by numerous professionals, including counselors whom Plaintiff sought out during the parties' separation and divorce, and also by a court-ordered psychologist, Dr. Davis Henderson.
23. Nonetheless, Plaintiff maintains that everyone is wrong, and she instituted this action in which she had clearly involved the children, as verified by the attached Exhibit "D".

24. In addition, Defendant has at all times expressed to HK that he was willing to turn over the college funds, though she had to also start communicating with him, with the assistance of counseling. Accordingly, the ability to access the funds have at all times been in the hands of the children, though Plaintiff seeks to interfere through this lawsuit.

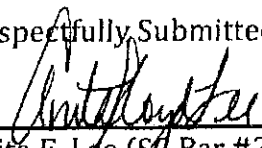
25. Further, as Plaintiff has not provided any financial assistance, upon information and belief, she has no standing to seek the relief in regards to HK, and she is premature seeking the funds on behalf of E.

26. For the reasons noted herein and as will be presented at the trial of this matter, Defendant prays for an order awarding unto him all attorney's fees and costs as he has incurred and will incur in this matter. He prays for this relief *pendente lite* and permanently.

WHEREFORE, having fully responded to Plaintiff's Complaint, and having Counterclaimed thereto, Defendant prays for an Order dismissing Plaintiff's Complaint, with costs; and awarding unto him the following relief based upon the Counterclaim he has filed:

- (a) Emancipating the minor child E based upon Plaintiff's alienation which has empowered the said minor child to believe she is on parity with Defendant in all regards, or in the alternative holding Plaintiff accountable for the minor child residing with her and refusing to return to the home of the custodial parent;
- (b) Modifying the amount of life insurance which Plaintiff can maintain for her benefit in the event of Defendant's death;
- (c) Attorney's fees and costs; and
- (d) Such other and further relief as this Honorable Court may deem just and proper.

Respectfully Submitted,


Anita F. Lee (SC Bar #2044)

1115 Third Avenue

Conway, SC 29526

Phone: 843.248.3206

Fax: 843.248.7173

Email: afloyd@anitafloydlaw.com

September 24, 2020

Capps vs. Capps

Answer and Counterclaim

Case Number: 2020-DR-26-1440

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE FAMILY COURT FOR THE
FIFTEENTH JUDICIAL CIRCUIT
Case Number: 2020-DR-26-1440

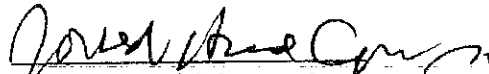
Michelle Davis Capps,)
Plaintiff,)

VERIFICATION

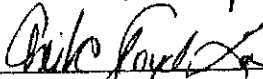
-vs-)

Joseph Harold Capps, Jr.,)
Defendant.)

PERSONALLY APPEARED BEFORE ME, Joseph Harold Capps, Jr. who being duly sworn and deposed, states that he has read and understands the forgoing Answer and Counterclaim and knows it to be true, except as to matters and things therein alleged upon information and belief, and as to those matters and things, he believes them to be true.


Joseph Harold Capps, Jr.

SWORN TO AND SUBSCRIBED before me
this 25 day of September, 2020.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: 4/13/2027

EXHIBIT

“A”

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)
)
 JOSEPH HAROLD CAPPS, JR.,)
)
 PLAINTIFF,)
)
 VS.)
)
 MICHELLE DAVIS CAPPS,)
)
 DEFENDANT.)

IN THE FAMILY COURT OF THE
 FIFTEENTH JUDICIAL CIRCUIT
 CASE NO.: 2019-DR-26-1437

TEMPORARY ORDER
 (NOT ENDING ACTION)
 FILED
 HORRY COUNTY
 2019 SEP 24 P 12:49

HEARING DATE: AUGUST 8, 2019
 PRESIDING JUDGE: MELISSA J. BUCKLHANNON
 PLAINTIFF'S ATTORNEY: ANITA F. LEE
 DEFENDANT'S ATTORNEY: JULAAN DERRICK
 GUARDIAN AD LITEM: HEATHER M. CANNON
 COURT REPORTER: BOBBIE FISHER

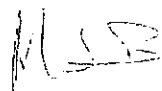
This matter came before me on motion of the Plaintiff seeking certain temporary relief. A hearing was held on August 8, 2019. Present at the time of the hearing was the Plaintiff and his attorney as well as the Defendant and her attorney. The Guardian ad Litem was present on behalf of the minor child. Prior to the call of the case, a status conference was held. At the call of the case, the Court explained that this hearing was set for the purpose of allowing the Guardian to come before the Court after doing an initial investigation to give a recommendation about custody and visitation or time shared with the child. That was initially the only reason that the hearing was scheduled and at the time it was set for 15 minutes. The Court further explained that subsequent to that, a Rule to Show Cause was filed and scheduled for 1 hour. The Court opined that there was not sufficient time to hear the Rule to Show Cause nor was there sufficient time to hear the second Motion for Temporary Relief that was filed by the Defendant. The Court

MJB

found that the Guardian had not had sufficient time to review the large amount of information in the case to give a recommendation at this time. The Court explained that there were strong concerns about alienation and strong concerns about the parents not participating as they should. Further, under the circumstances the Court understood the need of the Guardian for additional time. Therefore, the hearing as it relates to the recommendation of the Guardian ad Litem is continued. The Rule to Show Cause scheduled for today shall also be continued and rescheduled as that does not have an impact on custody.

As to the remaining issues discussed in the status conference, I hereby find and conclude as follows:

1. The parties shall participate in an alienation evaluation with Dr. Davis Henderson. The Guardian will make contact with Dr. Henderson to set that up. Each party will be responsible for one half of the fees associated therewith as both parties have participated in the issues between them getting to this level. The issue of fees may be revisited at a final hearing.
2. Each party shall provide to the Guardian ad Litem a copy of all text messages and email exchanges between themselves, and each other and the children, as there are concerns that she has not been given the complete thread of text messages and emails but rather the parties have picked through and chosen what they have given her. Further, these shall be in dated order.
3. Custody shall remain as previously ordered at the first Temporary Hearing and no hearing shall be held to modify custody prior to the Guardian being



ready to go back after her initial investigation or prior to the alienation evaluation being complete.

4. As to the supervised visitation requirement, this Court is very concerned with lifting the supervision restriction between the minor child and her Mother as there are some things that cannot be explained away while she was in her mother's care. If the supervision requirement is lifted and all of a sudden the child returns to the opinion that she doesn't want to see her Father and that she is scared of him then this Court will look to the Mother. This Court opines that the Mother has treated the children as her friends and not her daughters in that she has shared with them entirely too much, because the children know entirely too much, and they were not with their Father. The only people that knew what was going on in the courtroom were the adults who were sitting in it, so the children had to hear it from someone that was in the Courtroom. The only exception to this would be the time that Judge Jan Bromell Holmes required the children to come to Court during a Rule to Show Cause hearing between the parents. She did this to explain to the children directly the importance of following a court order and the ramifications of violating a court order. This Court holds Mother responsible for a lot of what the children know about the specifics of the case between the parties as they lived with her during this time and not with the Father. As for the Father, this Court does not believe that it is all someone else's fault that he doesn't have a relationship with the minor child as he had court ordered protections that

MCS

were to protect his visitation, among other things, with his children and he sat on them for a good bit of time and did not exercise his visitation as allowed. There is a 16-year-old child that wants to mend her relationship with her father and that means that he needs to step up to the plate. There is enough damage done with this 16 year that the he is going to have to do his part. This Court opines that if it heard all of the evidence the child would be taken away from both of them and neither party would see her. However, this Court recognizes that there is a 16-year-old that loves her mother and, for whatever reason, has problems with her father. She has expressed to her Guardian and her counselor that she wants to rebuild a relationship with her father. This Court has a Guardian ad Litem who has a 16-year-old ward expressing to her that she wants some unsupervised time with her mother. However, the Guardian has not expressed that the mother can be trusted to behave herself when she sees her. Therefore, this Court instructs the Guardian ad Litem to have a long conversation with Tamara Willard about the status conference. Once Ms. Willard is willing, and believes it is in the best interest of the minor child to lift the supervision requirement, then the requirement shall be lifted. This Court is not comfortable returning the child to her mother free and clear as these children have been coached to believe they are in control of the situation. Further, this Court is not going to have a situation where the child refuses to go to the Father, the Father cannot force the child out of the car and the Mother will not. Once Tamara Willard advises that the supervision

MES

As stated in the Order, the Guardian ad Litem shall notify the parties. At such time, the Mother shall have two days of visitation per week for five hours each day of unsupervised time until the matter is brought back before the Court. This visitation is to be scheduled around the minor child's school and work schedule and to be mutually agreed upon by the Father and Mother with the input of the minor child.

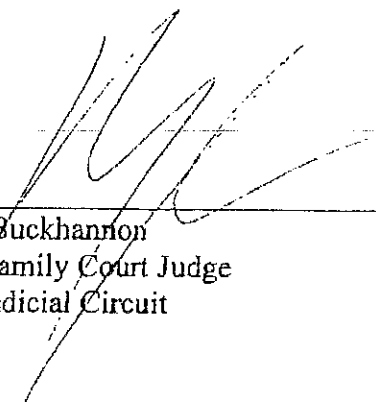
5. The Guardian ad Litem shall speak with the 18 year old and explain to her that she will be treated as the adult that she is in regard to discussing this litigation with the minor child and this Court will restrain her being around her younger sister if she proves to be a detriment to her. She is considered a third party adult and she is restrained from making disparaging remarks in the presence of her sister. Further, the Guardian and Tamara Willard are to have a conversation with the minor child and explain to her that she has a responsibility to direct others who make disparaging remarks in front of her to refrain from doing so. While the issues in this case may not be her fault, she is old enough to understand why she is in this situation and what her role is in repairing relationships. Once these conversations have been had, the minor child may go to Columbia with her mother to move her sister to college. The parties shall communicate the departure and return times and those parameters shall be followed.
6. The Father shall participate in counseling with Tamara Willard and the minor child as Tamara Willard requests and the focus of that counseling shall be mending the relationship with him and the minor child.

M. J. S.

7. Family counseling with Anna Castillo shall begin immediately.
8. All of the terms of the Temporary Order not specifically modified herein shall remain in full force in effect.
9. The issue of attorney's fees and costs shall be held in abeyance.

NOW, THEREFORE, it is hereby ordered that the ruling of the Court, as set forth in its entirety above, is hereby approved, merged into, and made the Temporary Order of this Court.

AND IT IS SO ORDERED.



Melissa J. Buckhannon
Presiding Family Court Judge
Fifteenth Judicial Circuit

Date: September 2nd, 2019.
Conway, South Carolina

EXHIBIT

“B”

ANITA R. FLOYD

A PROFESSIONAL CORPORATION

Telephone: (843) 248-3206

Facsimile: (843) 248-7173

1115 Third Avenue
Conway, SC 29526

P. O. Box 1482
Conway, SC 29528-1482

September 18, 2020

Via E-Mail and U.S. Mail

Ms. Julaan Derrick
Conway, South Carolina 29526
jdl@jdlaw.com

Re: Capps vs. Capps

Dear Julaan:

I understand that Emily is not attending counseling as the Court has Ordered. For your and her recollection, I am attaching herewith a copy of the Order from last August, which notes that "The Father shall participate in counseling with Tamara Willard and the minor child as Tamara Willard requests and the focus of that counseling shall be mending the relationship with him and the minor child".

Unfortunately, I understand that Emily has been only once or twice since the July 6th hearing, and that she has refused to return. I do not believe that either Emily or Michelle have the authority to terminate the counseling, or otherwise to set the terms or conditions, or the limitations upon which the counseling will take place.

I understand that Ms. Willard has attempted to schedule additional sessions, to no avail, thus this letter asking that your client immediately resume this counseling, as is required.

I realize that school has started and that Emily participates in cross-country. However, this will not pose a problem because Ms. Willard's last appointment is at 6:00PM, well after practice for Emily will have ended.

Additionally, the Court Order also provides that "Family counseling with Julia Castillo shall begin immediately". It appears as though you may have suggested that your client is not going to attend this counseling. Accordingly, I am enclosing a copy of the Order so that you can double-check what is required of the parties and the minor child.

In kind regards, I am

Sincerely Yours,

s/
Anita F. Lee

AFL/bjp

(Enclosure: Order following Aug.8, 2019 hearing)

cc: Heather M. Cannon
Julia Castillo
Tamara Willard

From: Emily Capps <ecapps5040@gmail.com>
To: HAL CAPPS <halman26@aol.com>
Sent: Tue, Sep 22, 2020 7:17 pm
Subject: Re: Hello

What kind of father did you think you were going to be if I was emancipated from you like you wanted? We have worked on our relationship and gone to counseling for years, and it has never once made a difference. I was trapped at your house for 9 months and you never once cared to have a relationship with me. This is my senior year, and I deserve to enjoy it the best I can. It's crazy to do the same thing over and over and think that we're gonna get any different outcome. If you want to have a relationship with me then you need to get your own therapist, find out what deep-rooted issue you have that causes you to act this way towards me and Hk, and start working on change. Once that happens, I'm sure that there would be a huge difference in your actions towards Hk and I, and I would be happy to join you in a counseling session or go to dinner.

On Sun, Sep 20, 2020 at 10:00 PM HAL CAPPS <halman26@aol.com> wrote:

I love you! We need to talk and work on us. I miss you. You need a dad and I am always here for you.
Good night.

Sent from my iPhone

EXHIBIT

“C”

From: Emily Capps <ecapps5040@gmail.com>
To: halman26@aol.com; tamarawillard <tamarawillard@aol.com>
Sent: Tue, Sep 8, 2020 10:48 pm
Subject: Fwd:

Since you valued being able to put spyware on my phone instead of having a way to communicate with me I've kept my word and gotten a phone on my own. Please feel free to stop paying for the service because the phone is completely broken. If you would give me my Apple ID and password for that phone, I really would like to have all of my pictures back. I'd be happy to return it to you after you give me the Apple ID and password.

Until you get help for constantly lying, breaking promises, creating chaos, not having your actions match your words, not being able to accept responsibility for your horrible and abusive behavior, pretending that you can't understand how your actions are what has destroyed your relationship with your daughters, not being able to understand that when you lie and tell ppl that we refused to stay with you for 2 years even though you never once came to pick us up and would always tell me no when I asked to come over or stay with you, when you lied to the judge and didn't care that we were at-risk of being sent to DJJ because of your lies, not our actions. When you tried to get us put in foster care, when you lied to everyone and said that we talked about it with Dr. Smith, you literally looked me in the eyes so many times and tried to convince me that we had talked to him about it and then you finally admitted to me and Tamara that you knew we never talked to him about foster care and acted like it was no big deal that you had been gaslighting me for over a year. When you called the police and lied to them, not only did you not provide anything for HK for college but you blocked her college account that was set up to pay her tuition and you literally told HK that she wasn't welcome at your house or in your office. She was home for over 6 months and you didn't try to speak to her or see her once even though I begged you to reach out to her. Now you want me to emancipate myself and there are so many other horrible things that you have done. Because of these and other actions I have realized that until you get help for yourself nothing is ever going to be able to get better between us. These behaviors are not anywhere near normal; they are abusive. Your words mean nothing to me and your actions have consequences, I only care about your actions. Whoever told you that trying to get us put in foster care was a good idea and that you should have me emancipated should be cut out of your life.

I want you to know that I have told all of my friends that you wanted me to emancipate myself and sign away any legal and financial rights and I'm pretty sure that they have all told their parents. That idea is literally so crazy to normal families. You stole my junior year from me and put me in hell. I deserve to have a good senior year. I hope that Tamara will be able to help you find someone to help you and that someday you will be better. When I read things like the email below and I know the truth and all that you have done to me and HK, all of the things that you have done to harm us, it literally makes me so angry and proves to me how messed up you really are. When you continue to do horrible things but then try to send nice texts I know that it is only for you to be able to use in court to try to make yourself look like a victim.

I really do love you but I just can't do this anymore. Please get help and if not please just leave me alone.

----- Forwarded message -----
From: **HAL CAPPS** <halman26@aol.com>
Date: Mon, Sep 7, 2020 at 1:24 PM
Subject:
To: Emily Capps <ecapps5040@gmail.com>

Hey sweetheart, I've sent you several messages and tried to call. Please talk to me. I'm your dad and I love you.

What day this week can we go to counseling? Can we go eat dinner afterwards? We could go shopping at the mall for school clothes. I love and miss you!

Based on FAFSA

As calculated by the institution using information reported on the FAFSA or to your institution.

\$21,711 / yr**Based on Institutional Methodology**

Used by most private institutions in addition to FAFSA

/ yr

	On Campus Residence	Off Campus Residence
Tuition and fees	\$14,263	
Housing and meals		\$10,092
Books and supplies	\$1,250	
Transportation	\$2,118	
Other education costs	\$3,400	
Estimated Cost of Attendance		\$31,123 / yr

Scholarship and Grant Options

Scholarships and Grants are considered "Gift" aid - no repayment is needed.

Scholarships		Grants	
Merit-Based Scholarships		Need-Based Grant Aid	
Scholarships from your school	\$5,000	Federal Pell Grants	\$0
Scholarships from your state	\$7,500	Institutional Grants	\$0
Other scholarships	\$0	State Grants	\$0
Employer Paid Tuition Benefits	N/A	Other forms of grant aid	\$0
Total Scholarships	\$12,500 / yr	Total Grants	\$0 / yr

Net Costs (Cost of attendance minus total grants and scholarships)	\$18,623 / yr
--	----------------------

Loan and Work Options to Pay the Net Costs to You

You must repay loans, plus interest and fees.

Loans		Work Options	
Federal Direct Subsidized Loan (0% interest rate)	\$0 / yr	Work-study (Federal, state, or institutional)	\$0 / yr
Federal Direct Unsubsidized Loan (2.75% interest rate)	\$6,500 / yr	Hours Per Week	0 / wk
Private Loan (N/A)	\$0 / yr	Other Campus Job	N/A
Institutional Loan (N/A)	\$0 / yr	Total Work Options	\$0 / yr
Other Aid That Must Be Repaid	\$0 / yr		
<i>In addition to the loans above, parents may also apply for the following.</i>		For More Information	
Parent Plus Federal Loan (10% interest rate)	\$0 / yr	University of South Carolina - Columbia 1244 Blossom Street, Suite 200 Columbia, SC 29208 Telephone: (803) 777-8134 E-mail: uscfaid@sc.edu	

* Loan Amounts

Note that the amounts listed are the maximum available to you? you are allowed and encouraged to borrow less than the maximum amount. To learn about loan repayment choices and work out your Federal Loan monthly payment, go to:

<https://studentaid.ed.gov/repay-loans/understand/plans>

Other Potential Education Benefits

- **American Opportunity Tax Credit:** Parents or students may qualify to receive up to \$2,500 by claiming the American Opportunity Tax Credit on their tax return during the following calendar year
- **Military and/or National Service Benefits**

Next steps

Customized Information from University of South Carolina - Columbia

If you have a Federal Direct Unsubsidized Loan and are a graduate or professional student, the interest rate on that unsubsidized loan is currently 4.3%.

Cost of Attendance (COA): The total amount (not including grants and scholarships) that it will cost you to go to school during the 2020-21 school year. COA includes tuition and fees; housing and meals; and allowances for books, supplies, transportation, loan fees, and dependent care. It also includes miscellaneous and personal expenses, such as an allowance for the rental or purchase of a personal computer; costs related to a disability; and reasonable costs for eligible study-abroad programs. For students attending less than half-time, the COA includes tuition and fees; an allowance for books, supplies, and transportation; and dependent care expenses.

Expected Family Contribution: A number used by your school to calculate the amount of federal student aid you are eligible to receive. It is based on the financial information provided in your Free Application for Federal Student Aid (FAFSA). This is not the amount of money your family will have to pay for college, nor is it the amount of federal student aid you will receive.

Federal Work-Study: A federal student aid program that provides part-time employment while the student is enrolled in school to help pay his or her education expenses. The student must seek out and apply for work-study jobs at his or her school. The student will be paid directly for the hours he or she works and the amount he or she earns cannot exceed the total amount awarded by the school for the award year. The availability of work-study jobs varies by school.

Grants and Scholarships: Student aid funds that do not have to be repaid. Grants are often need-based, while scholarships are usually merit-based. Occasionally you might have to pay back part or all of a grant if, for example, you withdraw from school before finishing a semester.

Loans: Borrowed money that must be repaid with interest. Loans from the federal government typically have a lower interest rate than loans from private lenders. Federal loans, listed from most advantageous to least advantageous, are called Direct Subsidized Loans, Direct Unsubsidized Loans, and Parent PLUS Loans. You can find more information about federal loans at StudentAid.gov.

Direct Subsidized Loan: Loans that The U.S. Department of Education pays the interest on while you're in school at least half-time, for the first six months after you leave school (referred to as a "grace period"), and during a period of deferment (a postponement of loan payments).

Direct Unsubsidized Loan: Loans that the borrower is responsible for paying the interest on during all periods. If you choose not to pay the interest while you are in school and during grace periods and deferment or forbearance periods, your interest will accrue (accumulate) and be capitalized (that is, your interest will be added to the principal amount of your loan).

Parent Plus Loan: A loan available to the parents of dependent undergraduate students for which the borrower is fully responsible for paying the interest regardless of the loan status.

Private Loan: A nonfederal loan made by a lender such as a bank, credit union, state agency, or school.

Net Cost: An estimate of the actual cost that a student and his or her family need to pay in a given year to cover education expenses for the student to attend a particular school. Net price is determined by taking the institution's cost of attendance and subtracting any grants and scholarships for which the student may be eligible.

For more information visit <https://studentaid.gov>.

STATE OF SOUTH CAROLINA

COUNTY OF Horry

MICHELLE DAVIS CAPPS,

Plaintiff(s),

v.

JOSEPH HAROLD CAPPS, JR.,

Defendant(s).

) IN THE FAMILY COURT
) FOR THE FIFTEENTH JUDICIAL
) CIRCUIT

) CASE NO: 2020-DR-26-1440

) **ORDER FROM PLAINTIFF'S**
) **MOTION FOR TEMPORARY RELIEF**

Date of Hearing:

Presiding Judge:

Attorney for Plaintiff:

Attorney for Defendant:

Court Reporter:

September 25, 2020

The Honorable Jan B. Bromell Holmes

Gregory Forman

Anita Floyd Lee

DCRP

2020 SEP 25 12 07 PM '20

This matter came before me on the 25th day of September, 2020, on the Plaintiff's motion for temporary relief. Appearing at the hearing were both parties with their respective attorneys. After reviewing the pleadings, the motion and return, and the parties' affidavits, this court issues the following order:

1. The Plaintiff's request that the Defendant contribute to HKC's college expenses on a temporary basis is denied. Each of these college expense cases are fact specific. The funds for college are available for the eldest child on behalf of the Defendant Father. The eldest child is not a party to the action and has engaged in direct communication with the Father concerning the issue. She has not submitted an affidavit as to her request to the Father to pay any amount and because she is not a party to this action is not subjected to cross examination as to her communication with her Father concerning her request or her efforts made in paying for college, obtaining a job or applying for loans. The Father included in his affidavit the discussion with the eldest child. On a temporary basis, the

Court will not grant any relief.

2. Both parties' requests for temporary fees and costs are held in abeyance.
3. As the Defendant's request for dismissal was not before the court, the court did not address it.

IT IS SO ORDERED!



THE HONORABLE JAN B. BROMELL HOLMES
PRESIDING JUDGE, FAMILY COURT

Georgetown, South Carolina
October 29th, 2020

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT
	)	FOR THE FIFTEENTH JUDICIAL
COUNTY OF HORRY	)	CIRCUIT
)	
MICHELLE DAVIS CAPPS,	)	CASE NO: 2020-DR-26-1440
)	
Plaintiff(s),	)	AFFIDAVIT OF MICHELLE DAVIS
	)	CAPPS IN OPPOSITION TO
v.	)	DEFENDANT'S MOTION FOR A
	)	PROTECTIVE ORDER AND TO
JOSEPH HAROLD CAPPS, JR.,	)	DISMISS
)	
Defendant(s).)	
)	

The affiant, after being duly sworn, deposes and says as follows:

1. I am the Plaintiff in the above captioned action. The Defendant is my ex-husband. We have two adult children together, HKC, who is a junior at the Honors College at the University of South Carolina and EHC, who is a freshman at the Honors College at Clemson University.
2. Throughout our post-divorce litigation, the Defendant has refused to make any required financial disclosures, despite the clear mandate of filing a financial declaration any time financial issues are raised. I find this court's continued willingness to allow the Defendant to defy the clear rules to be inexplicable and this motion is yet another attempt to defy the rules. That said, if the Defendant is willing to stipulate that he is not seeking fees from me in this case, that he has the ability to pay all of my fees, and that he has the ability to pay all college support that might be authorized under current case law without contribution from me, I would be willing to not have him provide any financial disclosure in this case. Otherwise, I believe financial disclosure is mandated.
3. Further, I find the Defendant's motion for a protective order inexplicable and waste of judicial resources. There has not been a motion to compel such financial disclosure and this request could have been raised at trial. Instead, my attorney was required to prepare for and attend this hearing.
4. The Defendant requests this protective order based on claims that I have alienated him from our children. I would note that only one order has found me in contempt on that issue and that order is currently on appeal. The rule to show cause the Defendant

- references in paragraph two of his motion resulted in a finding that I was not in contempt.
5. The Defendant raises numerous claims that I have used his financial condition to alienate him from our children. While I vehemently deny these allegations, they are not a basis for a protective order, especially when the children are now emancipated. To the extent he is using his claims of alienation to justify not providing college support for our children, he is basically forcing me to have the children testify at trial as to why they are alienated from him. I would note that when he obtained sole custody of our younger daughter, along with an order prohibiting me from contacting her, my daughter lived with him for nine months but returned to me at age sixteen with his tacit consent. He had nine months to develop a good relationship with her without any interference from me but didn't. That failure is his.
 6. I further note that the Defendant's motion demands I be responsible for all his fees while at the same time he refuses to supply the financial disclosure necessary for this court to properly examine the appropriate attorney fee factors. The Defendant has repeatedly used his refusal to provide financial disclosure as a sword and a shield, as he did in the order on appeal. The court needs to stop allowing him to do this.
 7. I would further note that this action would not have been necessary if the Defendant had merely agreed to pay for our daughters' college educations according to the appropriate college support factors. It took my filing this action to even get him to release our older daughter's pre-paid college tuition funds.
 8. I would not object to a protective order preventing me from sharing any of the Defendant's financial information with our adult children.
 9. This matter is not made moot merely because the Defendant turned over the his pre-paid college tuition funds to HKC. My complaint did not limit the Defendant's contribution to those funds and I am seeking reimbursement for funds I already provided for our daughters' college expenses. Further, my complaint sought contribution for both of our children and sought attorney's fees and costs. This action is not moot.
 10. I have standing to bring this action. There are numerous reported appellate decisions in which a parent has brought a college reimbursement claim on behalf of an adult child. To defeat the Defendant's standing defense would require our children to become parties

to this action. The Defendant has made myriad (I believe false) allegations that I have attempted to alienate the children from him. If I had our daughters join me as parties to this action, it would simply bolster the Defendant's claim of alienation. Rather, this standing defense shows the Defendant's willingness to be the cause of his own alienation from them.

11. There was no current demand for financial disclosure from the Defendant. This protective order demand is not only counter to South Carolina procedural rules, it could have been raised in a motion at the start of trial. I believe the Defendant's motion for a protective order was unnecessary and premature, and merely designed to foreclose the mediation that is set for the day after this hearing.
12. I have incurred attorney's fees for defending this motion. I would ask that the Defendant pay my fees for defending this motion.

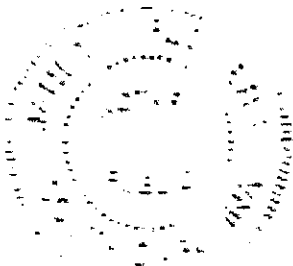
FURTHER AFFIANT SAYETH NOT

Michelle Davis Capps
MICHELLE DAVIS CAPPS

Sworn and Subscribed before me

this 29th Day of October, 2021

Andy McFlower
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 12/02/2025



STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT
	)	FOR THE FIFTEENTH JUDICIAL
COUNTY OF HORRY	)	CIRCUIT
)	
MICHELLE DAVIS CAPPS,	)	CASE NO: 2020-DR-26-1440
)	
Plaintiff(s),	)	PLAINTIFF'S RETURN TO
	)	DEFENDANT'S MOTION FOR A
v.	)	PROTECTIVE ORDER AND TO
	)	DISMISS
JOSEPH HAROLD CAPPS, JR.,)	
)	
Defendant(s).)	
)	

The Plaintiff, by and through her undersigned attorney, returns the Defendant's motion for a protective order and to dismiss as follows:

1. The Defendant's motion is yet another attempt to evade the explicit requirements of Rule 20, SCFCR. This court's inexplicable and repeated refusal to force the Defendant to comply with this rule should not be repeated.
2. If the Defendant is willing to stipulate that: 1) he is fully capable of paying 100% of the children's educational expenses, net of work study, grants, and student loans; 2) that he is not seeking contribution from the Plaintiff towards these expenses; 3) that he is not seeking attorney's fees and costs from me in this matter; and 4) that he has the ability to pay 100% of the Defendant's fees and costs from this case, then his income information is not needed. Otherwise, he should be required to provide this information. There is no basis for the Defendant's requested relief otherwise as his financial condition would remain relevant.
3. This matter is not made moot merely because the Defendant turned over the his pre-paid college tuition funds to the parties' oldest child. The Plaintiff's complaint did not limit the Defendant's contribution to those funds. The Plaintiff's complaint sought

contribution for both of the parties' children—the youngest of whom is at the Honors College at Clemson University. The Defendant seeks reimbursement of fund she has already contributed to the children's college expenses. The Plaintiff's complaint sought attorney's fees and costs. This action is not moot.

4. The Plaintiff's action should not be dismissed due to her alleged lack of standing to bring an action for college support on behalf of her adult children. The Defendant did not raise any Rule 19 or Rule 12(b), SCRPC defenses in his answer and counterclaim. Pursuant to Rule 12(h)(2), SCRPC, he has waived the defense of standing or failure to join an indispensable party because he did not raise these defenses in his answer and counterclaim.
5. Further, the Defendant's standing argument is disingenuous. On one hand, he claims that this action was brought solely to alienate him from the parties' children. On the other hand, he claims the action should be dismissed because the Plaintiff did not join the parties' children as parties. It is the Defendant, though his litigation posture, who has attempted to force the involvement of the parties' children.
6. Further, the Defendant's motion to dismiss should be denied as case law is clear that a parent is not required to join an adult child to a case in order to seek college support for that child and that a parent has standing to bring such an action on behalf of an adult child. The Supreme Court case reviving the right to seek college support, *McLeod v. Starnes*, 396 S.C. 647, 723 S.E.2d 198 (2012), shows a parent seeking college support for her child without that child being made a party. Further, the child was not a party to the action in *Risinger v. Risinger*, 273 S.C. 36, 253 S.E.2d 652 (1979) or *Hughes v. Hughes*, 280 S.C. 388, 313 S.E.2d 32 (Ct.App.1984). The Defendant does not cite any authority

for his claim that a parent lacks standing to bring a college support action on behalf of an adult child.

7. The Plaintiff has incurred fees and costs to defend this motion and believes the Defendant should be required to pay her fees and costs for this motion.

RESPECTFULLY SUBMITTED



GREGORY S. FORMAN, ESQUIRE

Attorney for Plaintiff(s)

171 Church Street, Suite 160

Charleston, SC 29401

(843) 720-3749

(843) 614-5086 (fax)

attorney@gregoryforman.com

Charleston, South Carolina

November 1, 2021

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

Michelle Davis Capps,)

Plaintiff,)

vs.)

Joseph Harold Capps, Jr.,)

Defendant.)

IN THE FAMILY COURT
FIFTEENTH JUDICIAL CIRCUIT

COPY

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Docket No. 2020-DR-26-1440

Plaintiff's Attorney:

Gregory S. Foreman, Bar No. _____

Address: _____

Phone: _____ Fax _____

E-mail: _____ Other: _____

Defendant's Attorney:

Anita Floyd Lee, Bar No. 2044

Address: _____

1115 Third Avenue, Conway, SC 29526

Phone: 843-248-3206 Fax 843-248-7173

E-mail: afloyd@anitafloyd.com Other: _____

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)

FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion

Estimated Time Needed: 30 mins.

Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

Written motion attached

Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Anita Floyd Lee
Signature of Attorney for Plaintiff / Defendant

3/15/2021

Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: \$ _____

EXEMPT:

(check reason)

Rule to Show Cause in Child or Spousal Support

Domestic Abuse or Abuse and Neglect

Indigent Status State Agency v. Indigent Party

Sexually Violent Predator Act Post-Conviction Relief

Motion for Stay in Bankruptcy

Motion for Publication Motion for Execution (Rule 69, SCRPC)

Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

Other: _____

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached order.

Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: *VH* Date Filed: *3-15-21*

MOTION FEE COLLECTED: \$ *25.00*

CONTESTED - AMOUNT DUE: \$ _____

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE FAMILY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
Case Number: 2020-DR-26-1440

Michelle Davis Capps,)
Plaintiff,)

MOTION

-vs-)

Joseph Harold Capps, Jr.,)
Defendant.)

TO: PLAINTIFF ABOVE-NAMED AND HER ATTORNEY, GREGORY S. FOREMAN

YOU WILL PLEASE TAKE NOTICE, that on the tenth day after service hereof, or as soon thereafter as may be heard, Defendant above-named will move before this Honorable Court for an Order relieving him of any obligation to provide his personal financial information to Plaintiff; or in the alternative, that he be allowed to provide this information under seal, for the Court's eyes only, as Plaintiff has shown through words and actions that she should not be entitled to this information. Specifically, Defendant submits that this action was filed for no reason but to further her alienation of the children and also for purposes of obtaining financial information to which she would never have otherwise been entitled. Accordingly, if Defendant is required to provide Plaintiff with information related to his financial status, Plaintiff effectively benefits from her own malfeasance. Under the prevailing facts and circumstances, your Defendant submits that his request is appropriate and should be granted, for the reasons noted hereinbelow as well as for the reasons as will be presented at the time of this motion hearing:

1. The parties separated from one another nearly 10 years ago, and they entered into an Agreement in 2014 which provided for custody and visitation, as well as for pre-paid college tuition (See attached **EXHIBIT "A"**).

FILED
2021 MAR 17 11:00 AM
CLERK OF COURT

2. Since the issuance of the Order approving the parties' agreement, Defendant has been forced to file two prior Rules to Show Cause based upon Plaintiff's alienation tactics (See attached **EXHIBIT "B"** and **EXHIBIT "C"**), and a third Rule to Show Cause is currently pending. Plaintiff was held in contempt of court and sanctions were issued against her following the Rules which have thus far been presented (See attached **EXHIBIT "D"** and **EXHIBIT "E"**).
3. As is evident, Plaintiff used, *inter alia*, financial issues in her successful efforts to alienate the children from your Defendant. Among other things, Plaintiff did the following:
 - a. She told the children that your Defendant loved money more than he loved them; and
 - b. She told the children that Defendant had kicked them out of their house; and
 - c. She directed the children on many occasions to try and entice Defendant into purchasing expensive gifts for her, including one particular occasion when Defendant had taken the children on a family vacation; and
 - d. She called Defendant "deadbeat" in front of the children on numerous occasions, notwithstanding that his alimony and child support amounted to \$14,000, and notwithstanding that Plaintiff was in her early 40's and obtained her Master's Degree during the marriage though she refused to obtain gainful employment before or after the parties' divorce; and
 - e. She encouraged the children to record encounters with Defendant [See Exhibit 2 to Affidavit in Support of *Ex Parte* Order filed June 17, 2019, in case number 2019-DR-26-1437]; and
 - f. She encouraged the parties' youngest child to take pictures of Defendant's financial records on about July 19, 2017, or in the alternative, her actions led this child to believe that engaging in such behavior was acceptable; and
 - g. She allowed the parties' oldest child to believe that Defendant was obligated to purchase a vehicle for her, going so far as to fabricate a story that she and Defendant had discussed the circumstances under which this vehicle would be purchased, notwithstanding that this child was a pre-teen at the time of separation, and the suggestion was ludicrous [See Exhibit 3 to Affidavit in Support of *Ex Parte* Order filed June 17, 2019, in case number 2019-DR-26-1437]; and

- h. She encouraged, planned, and then accompanied the parties' oldest child to visit expensive colleges and universities outside the State of South Carolina, notwithstanding her knowledge that Defendant had a pre-paid in-state college plan and had expressed his decision not to contribute more than the cost of a publicly supported in-state institution, thereby enabling the child to believe that Defendant was responsible for the cost of any university she chose to attend;
 - i. She expressed or implied through words or actions that Defendant owed the parties' children unlimited financial support during their college careers, as a result of which the oldest child felt empowered to demand of Defendant his bank statements and tax returns so that *she* (the child) could determine whether Defendant was able to pay for this child to attend the college of her choice.
4. Regarding the parties' oldest child, after Plaintiff began encouraging her to look into expensive out-of-state colleges and universities, and after Defendant refused to purchase a vehicle for this child due to behavioral issues, this child began spewing hatred not only toward Defendant, but also toward his lawyer as well as the Judge who had heard the two Rules to Show Cause (See attached **EXHIBIT "F"**).
 5. Although Plaintiff vehemently denied her alienation of the children, the attached affidavit from Hal Heidt, dated June 7, 2019, verifies that at the time of separation, this child and her father were not alienated (See attached **EXHIBIT "G"**).
However, as our Appellate Courts have determined, alienation is not the result of one act alone. It is a process that involves the failure to foster "a feeling of affections" between the children and the alienated parent over an extended period of time; it is the result of one parent repeatedly hampering the free and natural development of a child's love and respect for the other parent. *See Noojin v. Noojin, 417 S.C. 300, 316, 789 S.E.2d 769 (S.C. App. 2016)*.
 6. Plaintiff was very insidious: Through words and actions, she systematically undermined Defendant to the children, she interfered with his visitation on a regular basis, and she constantly complained about Defendant's failure to provide for them financially. Ultimately, Plaintiff and the children were so enmeshed in regards to their relationships with Defendant that the parent/child relationship

between Defendant and the children was not merely damaged, but destroyed. Furthermore, any person with whom Defendant developed a relationship – including Defendant’s wife – experienced the same loathing from the children, as has been proven in two prior Rules to Show Cause.

7. This Court has determined on two separate occasions that Plaintiff has engaged in egregious patterns of alienation, and she has used Defendant’s income as one of her primary weapons. In the event she is provided verification of Defendant’s income, she will have increased the weapons in her arsenal, and Defendant prays that this not be allowed.
8. On several occasions, Plaintiff has demanded information related to Defendant’s business income as well as his net income. She has attempted to obtain his tax returns and the children have parroted her to such an extent that the eldest felt entitled to demand tax returns and bank statements, and the youngest felt entitled to take pictures of financial documents that were in a closed briefcase. This entitlement could only have been the result of either direct instructions from Plaintiff (*i.e.*, as she did on July 17, 2017 when she instructed the children to record him), or an entitlement that arose as a result of Plaintiff’s constant communications with the children regarding Defendant’s income and assets.
9. The Courts abhor alienation, as is evident from their repeated holdings that the primary caregiver is the gatekeeper of the children’s emotions; and as such the primary caregiver is charged with encouraging affections between children and the non-primary parent, and is further expected to engage in no actions which would hamper the natural development of a child’s love and respect for the other parent. It has been determined through two separate court orders that Plaintiff has shirked her duties and her obligations in these regards, and Defendant prays that this Honorable Court be proactive in its protection against further alienation actions and that it thus deny Plaintiff access to any information relative to Defendant’s income, assets or worth.

Based upon the foregoing, and for additional reasons as will be presented at the time of this motion hearing, Defendant requests that he be relieved of any obligation to produce evidence of his income or his financial worth, or in the alternative, that he be allowed to present this information under seal. Defendant affirmatively acknowledges that he is capable of satisfying his attorney's fees and costs, notwithstanding that he believes Plaintiff should be responsible for same, as he believes the evidence and the facts and the history supports the conclusion that Plaintiff has instituted this action for only two reasons, neither of which should be condoned by this Honorable Court: (1) to further interfere in the relationship between Defendant and his children; and (2) to obtain information relative to Defendant's income, assets, and worth.

YOU WILL PLEASE TAKE FURTHER NOTICE, that on the date and time herein indicated, or to be indicated, Defendant will move before this Honorable Court for an Order awarding unto him attorney's fees and costs based upon the mere filing of this action. This motion is based upon the following:

10. Plaintiff instituted this action under the guise of obtaining access to college funds for the parties' children. However, as has been established, Plaintiff disregarded Defendant's requests and demands regarding this issue (See attached **EXHIBIT "H"**), notwithstanding that the parties' child had reached the age of 18 and had repeatedly proclaimed to Defendant that she was an "adult", and notwithstanding that Defendant had clearly expressed to Plaintiff that the issue was between him and the child [See **EXHIBIT "H"**].

11. Upon information and belief, Plaintiff's actions verify that despite the ages of the parties' children, her alienation tactics continue. As a practical matter, the Court Order which addressed college funds did not specify when the funds in issue would be turned over to the children. Further, the child had reached the age of 18 and was

thus an adult, yet she was not a party to this lawsuit. Accordingly, Plaintiff had no standing to institute the within action, though she nonetheless filed a Complaint seeking to have this Honorable Court modify an existing Order and force him to turn over a fund to which she has no claim, and has never had any claim.

12. Defendant submits that Plaintiff's actions were intended to block and thwart his efforts to have an adult conversation and understanding with his adult daughter. Plaintiff's filing suggests a passive-aggressive approach designed to sabotage Defendant's efforts to re-establish a relationship with his daughter, and was designed to undermine your Defendant to this child. Additionally, Plaintiff's filing of the within action confirms that she, as the controlling agent, has been encouraging this campaign against Defendant, notwithstanding that her success is evident from the attached Exhibit "F".

13. Plaintiff has accomplished nothing from the within action but to widen the chasm which she has heretofore created through her "loyalty bind" with the parties' children, whereby they were never allowed to simultaneously enjoy both parents. Stated otherwise,

Mother's behavior "triangulat[ed] the children, creating an alignment between one parent and the children, and creating toxic circumstances to increase the likelihood that they will reject the other parent.

Noojin v. Noojin, 417 S.C. at 317, 788 S.E. 2d at 778

14. This action should never have been filed, and Defendant submits that Plaintiff should be held responsible for all fees and costs as he has incurred in this matter, as well as what he may incur pending and through the final hearing.

15. Defendant acknowledges that his income is sufficient to pay his own attorney's fees and costs. However, that should not relieve Plaintiff of her obligation to compensate Defendant for his fees and costs, as Plaintiff's actions verify that this case was merely another effort for her to alienate the children, as well as an attempt to gain access to personal financial information to which she should not be entitled.

16. Additionally, public policy should demand that Plaintiff accept full responsibility for all fees and costs related to this action; otherwise, parents who have chosen not to become financially independent will or may feel empowered to bring repeated actions against the “payor ex-spouse” for no reason but to harass and harangue, or as a subterfuge for an unstated motive – *i.e.*, as in this situation where a lawsuit was instigated in an effort to gain access to Plaintiff’s financial status.

YOU WILL PLEASE TAKE FURTHER NOTICE, that on the date and time herein indicated, or to be indicated, Defendant will move before this Honorable Court for an Order dismissing Plaintiff’s Complaint. This motion is based upon the following:


17. For the reasons set forth above, Plaintiff does not have standing to institute the within action.

18. Further, after Plaintiff instituted the within action, the oldest child’s hatred toward Defendant became palpable, as a result of which Defendant decided to turn over to her the pre-paid college tuition funds, thereby making the subject of Plaintiff’s action moot.

WHEREFORE, Defendant prays that this Honorable Court consider his motion, and that it consider Plaintiff’s prior actions, and that it then dismiss Plaintiff’s Complaint; that it relieve him of the obligation to reveal to Plaintiff his income or his worth; and that further, it require Plaintiff to fully compensate Defendant for the attorney’s fees and costs as he has incurred in this matter.

ISO MOVE, this 15 day of March, 2021.

Respectfully Submitted,


Anita F. Lee (SC Bar #2044)
1115 3rd Avenue (P.O. Box 1482)
Conway, South Carolina 29526 (29528)
Phone: 843.248.3206
Fax: 843.248.7173
Email: afloyd@anitafloydlaw.com



State of South Carolina
The Family Court of the Fifteenth Judicial Circuit

Jan B. Bromell Holmes
Judge

Post Office Drawer 479
401 Cleland Street, Suite 238
Georgetown, SC 29442
Phone: (843) 545-3035
Fax: (843) 545-3264
jholmessc@sccourts.org

December 13, 2021

Attorney Gregory Samuel Forman
Via email: attorney@gregoryforman.com

Attorney Anita-Floyd-Lee
Via email: afloyd@anitafloydllaw.com

RE: Michelle Davis Capps vs. Joseph Harold Capps, Jr.
C/A# 2020-DR-26-1440

Good Morning All:

The Court has now had an opportunity to fully review the file and all submissions by the parties in its entirety and finds and concludes that this action should be dismissed in its entirety, with both parties being responsible for payment of their attorney fees. I am directing Mrs. Lee to prepare the order. Include the history of litigation between the parties as documented in court orders as well as the alienation issue concerning the children. Also note that during the parties' marriage and subsequent divorce, prepaid college tuition was addressed by agreement of the parties in the marital asset addendum.

Include all exhibits submitted to the Court that supports this ruling as well as differentiate how the facts in this case are distinguishable from case law in *McLeod v. Starnes*: the parties in the case at hand addressed prepaid college expenses at the time of the divorce as well as set aside an amount for college tuition to be maintained/paid by the Defendant, the parties did not do so in the *McLeod* case; the father and adult child in the *McLeod* case were not estranged and actually communicated with respect to the Father's payment of certain expenses, in spite of the Father renegeing on his agreement; the Father and adult child in the case at hand are estranged due to documented alienation by the Mother as determined in Court orders. Father attempted to repair the relationship

with the adult child by asking her to go to counseling with him and he would in turn pay the college expenses rather than supporting Father's efforts, Mother alleges that she paid college expenses and in turn filed this action seeking to have the Court order Father to reimburse her for the alleged college expenses that she paid. The very act undermines and disrespects the Father's authority and further alienates the adult child from her Father. Public policy and life's lessons teaches children, whether they are minors or adults to "honor their parents". It is not public policy to acquiesce in a child's lack of respect for a parent and yet order the parent to give into the desires or wishes of a child that disrespects or disobeys him.

The eldest child was emancipated at the time this action was filed and now the younger child is emancipated as well due to the passage of time. Neither child has requested nor has been listed as a party to this action in Plaintiff's request to seek reimbursement of college expenses from the Defendant. Neither child has submitted an affidavit to the Court stating that they in fact have outstanding college expenses that they are requesting that Defendant pay. The children are extremely mature and have engaged in questionable inappropriate communication with the father as well as has been disrespectful to him through social media or direct contact such that Plaintiff should not act as a buffer to shield them from what is required by case law to be presented to the Court. Furthermore, the children are adults and any statements presented by Plaintiff on their behalf is hearsay, not subjected to cross examination. Plaintiff has engaged in communication with the eldest child as submitted in Plaintiff's "Exhibit C" and also submitted as Defendant's "Exhibit G" of which is an email sent from Plaintiff to the eldest child encouraging her to "Please contact the Financial Aid office and request a copy of our EFC sheets/form PRIOR TO ME SUBMITTING THE CHANGE OF CIRCUMSTANCES INFO., This is really important b/c I want to have the highest level of need possible for your dad to be responsible for." This statement in and of itself indicates disingenuousness and lack of credibility on the part of Plaintiff in her efforts to illicit and/or gain as much money possible from the Defendant, regardless of whether the money is necessary for the child/children's tuition. It is also disturbing in that Plaintiff is conspiring with the parties' adult child to be untruthful about the amount of funds, if any, needed for college expenses. Please include the language from the Order issued as a result of the hearing held September 25, 2020 entitled "Order from Plaintiff's Motion for Temporary Relief dated October 29, 2020 and filed November 12, 2020. The Court indicated the necessity of the eldest adult child being made a party to the action as the funds for college were available and the eldest adult child and Defendant Father engaged in discussions with respect to same, but yet no affidavit was presented on her behalf, nor is she a party to this action, she did not appear at either hearing, is not subjected to cross examination by the Court as to her communication with her father concerning her Mother's request or her efforts made in paying for college, obtaining a job, or applying for student loans, etc. Plaintiff through her attorney has taken the position that the adult child/children are not necessary parties to the action and/or they haven't decided whether they will be called as a witness concerning Plaintiff's request for reimbursement of college expenses. Case law is specific as to what one must show in *Risinger*:

- (1) The characteristics of the child indicate that he or she will benefit from college;
and,
- (2) The child demonstrates the ability to do well, or at least make satisfactory grades;
and,
- (3) The child cannot otherwise go to college; and,
- (4) The parent has the financial ability to pay for such an education.

The Family Court judge must apply these four factors when determining whether one or both, of the parents, should be required to contribute to college expenses. The additional factor in McLeod requires the court to factor that parents who would have otherwise paid for their children's college expenses, but for the divorce, should be required to pay for college. In considering this factor, the Court notes that during the parties' marriage, the Defendant created through the South Carolina Tuition Prepayment Program accounts for each of the now adult children of the parties: the total purchase price was \$74,646.44 with the divided amount \$36,611.15 for Haley K. Capps and \$38,035.29 for Emily H. Capps. The parties agreed that Defendant in the divorce action would continue contributing to these accounts and he has done so. Thus, the parties agreed as married parents of the children that this amount would be set aside for the children's education. The Plaintiff attempts in this action to recoup funds that she has paid towards the eldest child college expenses. The Court finds that she is not exempt from also contributing to the children's college expenses because she would have done so as well as a married spouse. She has monthly income of \$10,500 as a result of alimony paid to her by Defendant which totals a gross amount of \$126,000.00. However, she has continued her efforts to have the Court require the Defendant to file a financial declaration with the Court for the purpose of her obtaining his current monthly income, expenses, assets and debts. The Court's hands are tied as to the truth of the matter as to what amount, if any, is needed by the adult child/children for payment of their college tuition by either parent above and beyond the prepaid college tuition account provided by the Defendant as the adult children are not parties to this action and have not supplied the Court with any testimony as to any actual outstanding college expenses. As referenced in the exhibit provided to the Court, it is Plaintiff's desire to have Defendant pay the highest need possible. It is the Court's position that due to the facts and circumstances of this particular case, the adult children are necessary parties in this matter. The fact that they have not been asked to verify through affidavit, appeared at any hearings or be named as parties to this action to provide actual amount of college expenses creates a rebuttable presumption that there is no request on their behalf: that this is yet another attempt by Plaintiff to continue litigation with the Defendant in an effort to have the court order him to submit a financial declaration so that she is apprised of her ex-husband of nearly 8 years financial status when in fact she is no longer privileged to his financial status. Please include language from prior orders addressing Plaintiff's request for Defendant to file a financial declaration in prior matters.

The matter is dismissed and may be re-filed by the adult children if they believe that they have college expenses that the Defendant should be required to pay above and beyond the agreed amount set aside in the prepaid college tuition plan during the parties' marriage and subsequent divorce in accordance to the established case law.

As stated, please include all language or submissions submitted to the Court that supports the Court's overall ruling that have not been included in this Memo.

Very truly yours,

Jan B. Bromell Holmes

Family Court Judge
Fifteenth Judicial Circuit

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
Michelle Davis Capps,)
Plaintiff,)
-vs-)
Joseph Harold Capps, Jr.,)
Defendant)

IN THE FAMILY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
Case Number: 2020-DR-26-1440

AFFIDAVIT OF DEFENDANT

PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED AFFIANT WHO BEING DULY SWORN AND DEPOSED STATES AS FOLLOWS:

Litigation History

1. Michelle and I had an unhappy marriage and a tumultuous divorce. I filed three Rules against her, two of which resulted in my favor; and I filed an action for custody and was granted that relief on an *ex parte* basis. That *ex parte* Order was affirmed on at least two subsequent occasions. All of my filings were based upon Michelle's alienation.
2. Although Michelle claims there was only one time she was found in contempt, I must respectfully disagree: In my first RTSC, Michelle not only had to pay \$20,000 toward my attorney's fees, but she had to attend counseling to address her alienation tactics. Thus, she acknowledged alienation and although I *agreed* not to pursue further sanctions, my complaint was that she had alienated the children, and she tacitly admitted this when she agreed to pay fees and get counseling.
3. I refused to consider settlement of the second RTSC because she never complied with the first one. In that action, the Court found clear alienation.
4. My third filing was for custody of our youngest daughter EC, and that is the relief I was granted on an *ex parte* basis. By the time I filed for custody of EC, our oldest daughter, with whom I had a great relationship prior to the separation, hated me. She hated me, my attorney (whose name she should not have even known), and the judge (also whose name she should not have known). In that action, a court appointed expert in Charleston confirmed that Michelle had indeed alienated the children.

5. My third Rule to Show Cause was based upon the Court's order that Michelle was to have no communication with EC, and almost immediately, I discovered that they were in regular communication. Personally, I think the judge did not want to hold Michelle in contempt because with her priors, she would have had to be sentenced to jail and Judge Norton did not think that would accomplish anything. By way of information: I had absolute verification that the phones of EC and Michelle connected for over 20 minutes within two days of Michelle being told she could have zero communication with our daughter. Michelle claimed that she did not know how to turn her phone off but she literally put the phone face down and just ignored the ringing; she never realized that when she was putting the phone down she must have made a connection, but she "swore" she had no communication with EC.
6. There is an app known as "WhatsApp". It does not keep records of texts or of phone calls except on the actual device. There is no detailed billing; there is no way to prove communication unless you get the device itself AND if the texts and calls are not deleted by the user. EC was deleting the texts as she went, as was Michelle. I know they were communicating because Michelle would say something and then EC would practically mimic her. What I was dealing with was not coincidental, but I could not prove this because of the App. All I had was the one 20 minutes connection, and the judge said that I did not "prove" they had actually talked.
7. Michelle was not found in contempt, but attached is the Court's reasoning when it refused to award her attorney's fees and costs. If anything, this supports my supposition as to why there was no finding of contempt.

Factual History

8. Throughout our marriage, Michelle was money hungry and status conscious. This was never more evident than her demands for virtually my entire salary when we separated, plus for me to pay for a home we could barely afford when we bought it. In context: I am a dentist and at that time I was working 10-12 hours a day. I made a good living, but establishing a savings was virtually impossible with Michelle. Further, Michelle got her Master's Degree during our marriage and at the time of our separation she was barely 40 years' old. However, she refused to get a job.

9. I agreed to pay an exorbitant amount of alimony with the hope that if she got \$10,500 per month, she would not alienate the children from me. I was wrong, as history has shown. She expressed that if I did not want her, I could not have my children. That is the only reason I stayed the last two years, during which time I was miserable in my marriage. Point being that I knew Michelle would alienate the children unless I was very proactive, which is why I agreed to alimony and child support amount in the amount of \$14,000 per month.

10. Michelle still used money to alienate the children:

- a. She told them that I loved money more than I loved them (which she denied until I confronted her with a tape recording wherein she admitted it);
- b. She told them that I had kicked them out of their house, and the children started telling me they were "uncomfortable" there without their mother;
- c. She once told our oldest HKC to tell me that for mother's day, she (HKC) wanted to get Michelle a Louis Vuitton bag and unlimited charging privileges at the Dunes Club [I had the text messages between Michelle and HKC];
- d. She called me a deadbeat in front of them, actually going so far as to tell them I was nothing but a sperm donor;
- e. She instructed them to take pictures of bank records and financial documents;
- f. She told our oldest that she and I had discussed the kind of vehicle we would buy for her (HKC), though Michelle and I never talked about getting HKC a vehicle – in fact, HKC was only 11 when we separated;
- g. Michelle took our oldest to NYC to look at expensive private colleges, and then HKC wanted to see my financial records so she could determine whether I could pay for her to go there. What was really so absurd about this is that Michelle knew I established in-state prepaid college tuition accounts for our children so that their in-state tuition would be paid when they graduated from high school. I went to Citadel, and South Carolina has a great selection of colleges.

11. The above are but a few examples of Michelle's use of finances to alienate our children. I do not believe Michelle should ever be entitled to know what I make or what my bills are. The family court is a court of equity, and if Michelle has brought a

frivolous lawsuit, then she should not be allowed to use that lawsuit to gain access to information to which she is otherwise not entitled.

Current Action

12. On July 30, 2020, Michelle filed an action for college expenses on behalf of our oldest daughter HKC who was 19 years old at the time. She did this for no reason but to gain access to my financial information. This is evident from the following:

- a. I'm not aware of anything Michelle has paid for HKC's college, so what is her cause of action? She has no claim for reimbursement and HKC is an adult so if she has student loans, she can come to me or she can pay them, or her mother can pay them if she so chooses. Based upon the complaint, I have no reason to believe that Michelle has paid any amount toward HKC's education.
- b. Even if Michelle has paid something but elected not to include it in her complaint, she earns double the mean income in South Carolina, so she is in a position to contribute financially for the children.
- c. Michelle is seeking college funds, but I have provided college funds.
- d. It appears as though Michelle filed an action to modify a prior order that was not subject to modification. I agreed when we finalized our separation to maintain the college funds for the children, and I did. Nowhere did I agree when they would get those funds. That was deliberate on my part because I knew Michelle. She filed the action for no reason but to gain access to my financial information, and that is rewarding her for misusing the court system.

13. Interestingly, in both of the Rules that I filed against Michelle, she tried to claim that she was "entitled" to know my income since I had asked for attorney's fees and costs. My attorney argued that the case law allows for compensatory fees and costs. When Michelle agreed to pay \$20,000 at the time of the first RTSC, she tacitly acknowledged that fact. She nonetheless argued it at the second RTSC as well, and she has appealed the order partially because she was required to reimburse me a portion of my attorney's fees.

Current Action as Applied to Facts of Case Number 2019-DR-26-1437

14. Right now, Michelle has an action filed on behalf of two children who are both legally adults. Interestingly, even before EC was 18, she went to her mother's home and Michelle provided her housing rather than sending her home, notwithstanding a court order requiring Michelle to stay away from EC. When I filed a RTSC against

Michelle, she said she needed a week for the Rule. That effectively continued the Rule until after EC's 18th birthday. Michelle then claimed I had no cause of action because EC had become an adult. What is the difference? If I cannot maintain a suit against Michelle because the children are adults, then why can she maintain a cause of action under the same circumstances? Factually, Michelle is trying to make me do something for an adult child, just like I was trying to keep an adult child away from a toxic situation and parent.

Standing

15. How can Michelle bring an action to make me pay for our adult children's college when she hasn't paid for these costs? There is no indication that Michelle has done anything substantial. Thus, why has she brought this action and what is her interest?
16. The order approving our initial agreement was that I maintain previously established funds. When I turn over those funds was totally up to me. That order was not appealed and had been in existence for 6+ years before Michelle filed an action which was nothing but an attempt to modify the order.
17. Michelle has interjected herself in every aspect of my relationship with our children. If they need anything, they can come to me and ask. If I decide to accommodate them, that is between me and them. If I tell them "no", that is my decision to make. It may be their mother's fault that they were alienated, but as they and Michelle have reminded me, they are now adults.
18. Michelle should not be allowed to continue her war in their names.
19. Likewise, as they are adults, they should not be allowed to hide behind their mother, just as their mother should not be allowed to further obstruct my relationship with them.

Family Dynamics

20. I love my children more than life itself, but I will not be emotionally bullied by them. Further, I do not think that Michelle should be allowed to abuse the courts' process for her own uses and purposes. I do not blame our children for their mother's actions. However, they are adults, and if they want a relationship with me, and

everything that comes with that, then I am here for them when they choose to reach out. To date, that has not happened.

21. By the same token, if my children do not want a relationship with me, they are adults so I can no longer try and force that on them.
22. The Court is cognizant of what Michelle has done, and it is also very well aware that the children have been brainwashed, even if the children do not recognize this. However, as the Court has recognized in prior case law, a parent who is being alienated often acquiesces when he/she should not, both in an effort to get along with the alienating parent and also to appease the children's concerns. Maybe I was wrong not to force them to come to my house every weekend when they were younger and told me they weren't "comfortable" spending the night. However, I could not just dismiss their concerns. Their concerns were not factually true, but it was their reality at that time, as fed to them by their mother. Thus, I did the best I could at that time. With the benefit of hindsight, there are things I should have done earlier, but unfortunately, the law in South Carolina is that I had no grounds for custody until *after* the alienation had occurred.
23. It was important that the children not think I was forced to pay for their college tuition. The Court recognized that Michelle had no grounds to modify the prior order so it denied Michelle's request to gain access to the tuition funds I established, and maintained. When it was appropriate, I turned over the funds to the children. HKC is the owner of her fund, but has yet to even acknowledge that, though I confirmed it was received by *her*. I still hold ownership to EC's account so that I can monitor it, and she has full access to her college funds.
24. Michelle should have never filed an action, as she did not have the authority to determine when I handed over the funds to the children. Further, the moment I turned over the funds, Michelle's complaint became stale.

Plaintiff's Ability to Contribute

25. There is no indication that Michelle has contributed to the children's college education whatsoever. However, even if she has provided something, why shouldn't she? The average income in South Carolina is \$63,020. Top earners in this state earn \$84,961. The median household income for South Carolina is \$56,227 and the

middle income for Horry County is \$53,648 [See Attached EXHIBIT "B"]. Michelle not only has a Master's Degree, but she has alimony of \$10,500 per month, or \$126,000 annually, which is nearly 150% of the income of the top earners, and it is nearly double the middle income for Horry County. As a practical matter, if Michelle did not like my decisions of when to turn over the college funds, then Michelle could have paid for college herself. After all, she got her Master's Degree during the marriage and she claims to be a counselor or therapist. Between her ability to earn an income and her alimony, she has the wherewithal to help provide for them. Why does she think she should be exempt for providing for her own children?

26. Michelle has not standing to request the relief in her complaint. Further, the relief which she has requested is stale. Finally, Michelle could have provided for the children without any assistance if she had wanted to. Michelle is not their agent; she has no claim for reimbursement; I have paid the tuition. Most importantly, the recipients are adults, and they have yet to seek anything beyond what I have already done.

Attorney's Fees

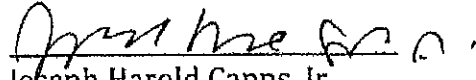
27. I believe I am entitled to have this matter dismissed for the reasons noted, and I also ask that all of my attorney's fees be reimbursed. This matter should never have been brought.

Financial Information

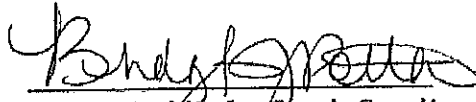
28. Because this action should never have been brought, I ask that I be relieved of any obligation to provide a financial declaration. Further, I ask that Michelle be held accountable for the frivolous action she filed.

29. I ask the Court to consider the reasons that this action was filed, and that it not allow the process to be abused by filing frivolous actions just to gain information to which the complainant is not otherwise entitled. Accordingly, if the Court believes that this action will be sustained, then I ask for an interim award of at least \$25,000, as Michelle has provided nothing of substance to support her complaint. I further ask that I be allowed to file my financial declaration under seal and for the eyes of the Court ONLY. This is for my protection, the need for which has been shown through Michelle's actions for 10+ years.

FURTHER THE AFFIANT SAITH NOT.


Joseph Harold Capps, Jr.

SWORN TO AND SUBSCRIBED before me
this 2 day of November, 2021.


Notary Public for South Carolina
My commission expires: 4/3/2023

EXHIBIT

“A”

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

JOSEPH HAROLD CAPPS, JR.)

Plaintiffs)

vs.)

MICHELLE DAVIS CAPPS)

Defendants)

IN THE FAMILY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
CASE NUMBER: 2019-DR-26-1437

ORDER ADDRESSING DEFENDANT'S
MOTION TO RECONSIDER

FILED
HORRY COUNTY
2019 SEP 11
11:33
CLERK
GENERAL
COURT

THIS MATTER HAS COME BEFORE THE COURT addressing the Defendant's Motion to Reconsider the denial of attorney's fees in defending two rules to show cause. Court by this order grants the motion but pursuant to correspondence from the defendant's attorney indicating a hearing in the matter was not requested the court is issuing this order without a hearing.

The defendant first argues the Court failed to address the factor of the party's ability to pay. The Court will address that factor now. While the plaintiff has income greater than the defendant the evidence clearly show the defendant has the ability to pay. Defendant introduced her financial declaration (Defendant's exhibit 1) which shows she has a gross monthly income of \$10,500.00 and therefore an annual income of \$126,000.00. This clearly establishes the defendant having the ability to pay her own fees.

Next the defendant argues fees should be awarded based on beneficial results in successfully defending two rules to show cause. This Court found the basis for not holding the defendant in contempt for her alleged contemptuous actions was the result of the plaintiff's delay in seeking enforcement by acquiescing to the minor child's wishes. The defendant failed and refused to return the minor child to the plaintiff who had custody by Court order. The Court does not find the defendant credible and was convinced the minor's wishes were the result of the influence of the defendant. But for the actions of the plaintiff the defendant may have been in willful contempt.

Third, the defendant argues the Court did not consider the respective financial conditions of the parties. As stated above while the plaintiff makes more than the defendant she is by no means destitute. The discrepancy in income is not in and of itself a basis to award fees.

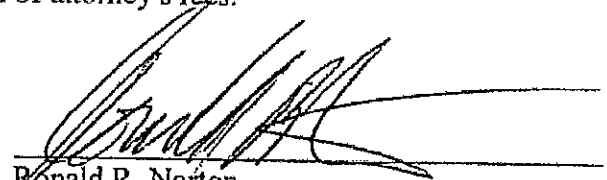
Finally the defendant argues the Court failed to consider the effect of the fees on each party's standard of living. While again the plaintiff may have a greater income than the defendant there was insufficient evidence to show how the defendant's standard of living affected by the Court's ruling to deny the defendant attorney's fees.

This Court is mindful of the contentious nature of this case and the party's disgust for each other. Their actions throughout this case seem to be focused more on punishing the opposing party than doing what was in the best interest of the children. The credibility of both is questionable and the court will not reward either based on their actions.

BAW

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the defendant's Notice of Motion and Motion for Reconsideration by the plaintiff while being granted after careful analysis this court affirms the denial of attorney's fees.

AND IT IS SO ORDERED.



Ronald R. Norton
Family Court Judge, Fifteenth Judicial Circuit

September 6, 2021
Conway, South Carolina

RAN

EXHIBIT

“B”

Median Household Income By County 2010-2019

[Download CSV](#)

County	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
South Carolina	\$42,117	\$43,290	\$43,290	\$44,310	\$45,337	\$47,308	\$49,587	\$50,675	\$52,449	\$56,360
Abbeville	\$34,658	\$35,456	\$35,456	\$36,187	\$35,525	\$35,932	\$40,211	\$41,118	\$42,412	\$46,499
Alken	\$43,196	\$45,699	\$45,699	\$43,876	\$48,537	\$48,012	\$47,394	\$51,583	\$52,633	\$56,824
Allendale	\$24,615	\$25,633	\$25,633	\$25,753	\$25,530	\$27,089	\$26,864	\$28,135	\$29,124	\$32,147
Anderson	\$38,851	\$39,905	\$39,905	\$41,591	\$43,124	\$44,745	\$45,821	\$48,846	\$51,740	\$54,496
Bamberg	\$29,101	\$30,170	\$30,170	\$30,762	\$30,349	\$29,642	\$32,245	\$32,693	\$36,230	\$35,364
Barnwell	\$30,898	\$32,042	\$32,042	\$31,899	\$32,205	\$33,280	\$41,803	\$36,568	\$38,131	\$36,675
Beaufort	\$55,266	\$54,139	\$54,139	\$56,354	\$55,427	\$60,071	\$65,354	\$60,319	\$65,843	\$73,890
Berkeley	\$49,284	\$49,872	\$49,872	\$50,794	\$52,436	\$55,876	\$58,690	\$57,399	\$62,204	\$68,690
Calhoun	\$37,507	\$42,006	\$42,006	\$40,593	\$41,209	\$41,277	\$41,786	\$45,149	\$45,385	\$47,090
Charleston	\$46,187	\$48,200	\$48,200	\$51,206	\$52,752	\$56,244	\$56,564	\$60,144	\$62,958	\$70,980
Cherokee	\$35,223	\$37,135	\$37,135	\$37,726	\$38,947	\$37,098	\$38,273	\$34,962	\$42,542	\$46,905
Chester	\$34,908	\$33,718	\$33,718	\$36,523	\$37,537	\$35,006	\$39,972	\$40,850	\$42,116	\$45,400
Chesterfield	\$32,483	\$31,936	\$31,936	\$33,591	\$34,949	\$36,520	\$39,869	\$38,881	\$39,046	\$42,441
Clarendon	\$30,913	\$30,519	\$30,519	\$30,096	\$32,268	\$34,654	\$34,541	\$36,647	\$36,722	\$39,900
Colleton	\$32,446	\$33,208	\$33,208	\$33,817	\$35,558	\$33,745	\$35,760	\$36,139	\$39,079	\$40,808
Darlington	\$33,772	\$34,103	\$34,103	\$34,209	\$35,640	\$36,719	\$37,711	\$38,886	\$37,206	\$44,007
Dillon	\$28,665	\$29,205	\$29,205	\$33,696	\$30,516	\$31,094	\$31,761	\$32,229	\$33,159	\$35,483
Dorchester	\$51,132	\$53,924	\$53,924	\$55,193	\$56,388	\$55,595	\$58,167	\$63,269	\$65,468	\$68,051
Edgefield	\$41,501	\$42,065	\$42,065	\$44,862	\$44,129	\$46,430	\$46,816	\$48,059	\$48,818	\$52,591
Fairfield	\$32,261	\$34,007	\$34,007	\$35,531	\$35,490	\$36,622	\$36,715	\$40,285	\$39,522	\$42,496
Florence	\$38,914	\$40,577	\$40,577	\$41,028	\$42,232	\$41,197	\$45,044	\$43,727	\$47,949	\$49,770
Georgetown	\$38,340	\$40,962	\$40,962	\$41,213	\$44,283	\$44,395	\$47,842	\$48,373	\$46,058	\$53,747
Greenville	\$45,666	\$47,044	\$47,044	\$49,476	\$49,659	\$52,017	\$55,452	\$56,311	\$61,162	\$64,399
Greenwood	\$35,619	\$37,187	\$37,187	\$37,217	\$38,878	\$42,240	\$40,599	\$42,740	\$43,879	\$43,958
Hampton	\$33,367	\$32,934	\$32,934	\$32,941	\$33,644	\$30,772	\$35,667	\$36,834	\$35,871	\$37,560
Horry	\$40,697	\$40,249	\$40,249	\$41,808	\$42,830	\$47,083	\$45,608	\$45,979	\$49,082	\$53,648
Jasper	\$35,533	\$35,692	\$35,692	\$34,852	\$37,715	\$37,231	\$41,902	\$40,960	\$43,125	\$50,790
Kershaw	\$42,174	\$46,019	\$46,019	\$44,787	\$45,411	\$48,233	\$48,824	\$50,627	\$52,270	\$56,318
Lancaster	\$38,312	\$43,479	\$43,479	\$40,837	\$44,854	\$47,279	\$53,421	\$57,667	\$58,035	\$63,842
Laurens	\$36,345	\$36,483	\$36,483	\$36,771	\$38,268	\$39,731	\$43,191	\$41,695	\$42,099	\$47,038
Lee	\$29,756	\$30,053	\$30,053	\$30,972	\$31,510	\$31,525	\$32,015	\$33,756	\$33,199	\$37,710
Lexington	\$51,523	\$52,249	\$52,249	\$53,880	\$54,098	\$55,413	\$57,623	\$60,329	\$60,627	\$62,059
McCormick	\$34,963	\$39,413	\$39,413	\$38,186	\$38,694	\$41,589	\$43,262	\$44,644	\$44,683	\$48,645
Marion	\$27,917	\$29,140	\$29,140	\$28,520	\$32,283	\$30,528	\$31,556	\$31,438	\$34,365	\$35,138
Marlboro	\$28,630	\$28,927	\$28,927	\$31,185	\$31,170	\$32,485	\$32,991	\$33,412	\$33,534	\$34,532
Newberry	\$39,054	\$38,808	\$38,808	\$37,890	\$42,000	\$41,120	\$42,128	\$42,538	\$48,029	\$50,773
Oconee	\$42,671	\$42,062	\$42,062	\$42,077	\$39,548	\$44,819	\$46,996	\$51,087	\$50,529	\$52,240
Orangeburg	\$32,699	\$33,796	\$33,796	\$32,180	\$31,382	\$37,651	\$34,557	\$36,358	\$37,134	\$38,736
Pickens	\$40,110	\$39,823	\$39,823	\$42,400	\$41,375	\$44,091	\$46,154	\$48,133	\$48,794	\$52,949

Richland	\$45,944	\$47,606	\$47,606	\$47,492	\$49,782	\$51,065	\$51,973	\$52,187	\$52,611	\$52,905
Saluda	\$39,570	\$41,552	\$41,552	\$40,366	\$42,286	\$41,409	\$43,685	\$44,487	\$46,019	\$49,493
Spartanburg	\$41,888	\$41,327	\$41,327	\$42,638	\$44,050	\$45,768	\$47,706	\$51,035	\$53,567	\$55,588
Sumter	\$36,554	\$39,014	\$39,014	\$39,182	\$37,906	\$41,058	\$41,205	\$44,375	\$45,181	\$49,611
Union	\$34,125	\$32,717	\$32,717	\$34,042	\$37,501	\$35,467	\$39,119	\$41,327	\$40,686	\$42,851
Williamsburg	\$28,083	\$28,121	\$28,121	\$29,391	\$29,609	\$28,943	\$28,314	\$32,421	\$32,814	\$34,409
York	\$51,403	\$51,427	\$51,427	\$54,927	\$54,196	\$57,302	\$61,044	\$62,620	\$64,904	\$68,468

Source:

US Census Bureau, Small Area Income and Poverty Estimates (SAIPE) 2010-2019.

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Revenue and Fiscal Affairs Office

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1000 Assembly Street
Robert Dennis Building, Suite 421
Columbia, SC 29201
(803) 734 2753

GEODETTIC SURVEY SECTION

5 Geology Road
Columbia, SC 29212

HEALTH AND DEMOGRAPHICS DIVISION

1000 Assembly Street
Robert Dennis Building, Suite 240
Columbia, SC 29201

From: Gregory Forman <attorney@gregoryforman.com>
Subject: RE: Capps vs. Capps. FINAL ORDER
Date: March 3, 2022 at 6:06:09 PM EST
To: "Holmes, Jan Bromell Secretary (Cindy R. Hardy)" <JHolmesSC@sccourts.org>
Cc: Michelle Capps <mdaviscapps@gmail.com>, afloyd@anitaflloyd.com

Cindy,

The objections I noted in my previous emails—Judge Holmes made factual findings outside of the Rule 19 issue without testimony to establish them; Ms. Floyd's proposed final order includes prior orders as exhibits and makes factual findings that Judge Holmes did not make—remain. We have no additional objections.

Gregory S. Forman, PC
171 Church Street, Suite 160
Charleston, SC 29401
(843) 720-3749
(843) 614-5086 (fax)
<https://www.gregoryforman.com>

From: Gregory Forman <attorney@gregoryforman.com>
Sent: Wednesday, March 2, 2022 10:17 AM
To: Holmes, Jan Bromell Secretary (Cindy R. Hardy) <JHolmesSC@sccourts.org>
Cc: bpotter@anitaflloyd.com; Michelle Capps <mdaviscapps@gmail.com>; afloyd@anitaflloyd.com
Subject: RE: Capps vs. Capps. FINAL ORDER

You can let Judge Holmes that the Plaintiff objects to all factual findings other than those that find the Plaintiff failed to join indispensable parties (the parties' adult children) to the action . That was the basis of her dismissal. All other factual findings are based on pleadings or affidavits that were not subject cross examination and are inappropriate in a final order. This was not a motion for summary judgment and there is no summary judgment in family court. Accordingly factual findings based upon pleadings or affidavits are simply not appropriate.

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(843) 614-5086 (fax)
<https://www.gregoryforman.com>

From: Gregory Forman <attorney@gregoryforman.com>
Sent: Tuesday, February 22, 2022 10:56 AM
To: afloyd@anitafloyd.com; bpotter@anitafloyd.com
Cc: Michelle Capps <mdaviscapps@gmail.com>
Subject: RE: Capps vs. Capps. Proposed Order

Anita,

There are numerous factual findings that are nowhere in Judge Holmes' memo ruling. I especially object to factual findings adverse to the parties' children.

Please remove all factual findings not made by Judge Holmes' correspondence.

Gregory S. Forman, PC
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Charleston, SC 29401
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(843) 614-5086 (fax)
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STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE FAMILY COURT OF THE)
FIFTEENTH JUDICIAL CIRCUIT)
Case Number: 2020-DR-26-1440)

Michelle Davis Capps,)
Plaintiff,)

FINAL ORDER
(Ending Action)

-vs-)

Joseph Harold Capps, Jr.,)
Defendant.)

FILED
HORRY COUNTY
2022 MAR -9 A 11: 23
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

TRIAL JUDGE: The Honorable Jan Bromell Holmes
DATE: November 2, 2021
PLAINTIFF'S ATTORNEY: Gregory S. Forman
DEFENDANT'S ATTORNEY: Anita F. Lee
COURT REPORTER: Julie Kevish

On July 30, 2020, Plaintiff filed an action seeking, *inter alia*, financial assistance with college expenses of the parties' two children, the older of whom was a college student at the University of South Carolina when this action commenced, and the younger of whom was still in high school at the commencement of the action. Defendant was served with process and his attorney, Anita Lee, filed an Answer and Counterclaim on September 25, 2020. Plaintiff then filed a Reply on October 5, 2020, thereby joining the issues.

The parties attended mediation but were unable to resolve the issues, and on March 15, 2021, Defendant filed a motion requesting that Plaintiff's Complaint be dismissed; or in the alternative, that he be relieved of any obligation to provide his personal financial information to Plaintiff; or in the alternative that he be allowed to provide his financial declaration under seal, for the Court's eyes only. Both parties have requested attorney's fees and costs.

At the commencement of the hearing, Defendant acknowledged that his requested relief was unique, though he further argued that his request was understandable in this particular factual situation, and that equity demanded he be provided the protection he has requested. In support of his position, Defendant iterated the parties' unusual marital and litigation history, as follows:

History

The parties separated from one another approximately 10 years ago, and they entered into two separate agreements on June 25, 2014, one of which addressed issues related to the parties' children, and another which addressed the financial issues and obligations of the parties. Their agreements were approved by this Court, which merged, adopted and incorporated the terms of their agreements into a Final Order. [See EXHIBIT "A" and EXHIBIT "B", attached hereto].

Thereafter, two Rules to Show Cause were issued against Plaintiff based upon Defendant's allegations that Plaintiff had alienated the children from him. [See EXHIBIT "C" and EXHIBIT "D", attached hereto]. The first Rule to Show Cause (RTSC) was resolved after 3 days of trial, and Plaintiff was found to be in contempt of court after the second RTSC hearing.

Within days of the court's ruling after the second RTSC hearing, Defendant filed an action for custody of the parties' youngest child, and this Court issued an *ex parte* Order awarding unto him this relief. The *ex parte* order matured into a temporary order following a hearing for this purpose, and Plaintiff was forbidden from having any communication with the child [See EXHIBIT "E", attached hereto]. Ultimately, the case was resolved through the emancipation of the youngest child [See EXHIBIT "F", attached hereto].

According to Defendant, Plaintiff's alienation tactics included her discussing with the children how much money Defendant allegedly earned and what he paid by way of child support and alimony. Evidence was presented at the first and/or second Rules to Show Cause that Plaintiff had told the children Defendant loved money more than he loved them; that Defendant had kicked them out of their house; and that Defendant had broken his promise to buy a vehicle for the oldest child. Plaintiff also took the oldest child to visit various private and out-of-state colleges, thus indicating to this child that Defendant would finance her college education at whatever institution she elected to attend, even in New York City. She did this notwithstanding that one aspect of the parties' Marital Settlement Agreement was that Defendant would fully fund the South Carolina College Tuition Prepaid Program, which program applied only to in-state public institutions.

In addition, on July 17, 2017, the youngest child, who was then 14 years of age, was caught taking pictures of financial records Defendant had in a briefcase in his vehicle. This

Page 2
JBJH

last incident was audio recorded by Defendant and the recording was played at the second Rule to Show Cause hearing, and is referenced in the resulting order (which is currently under appeal).

According to Defendant, Plaintiff is obsessed with him and with knowing his income and his financial status, and this Court takes note that the Orders issued from the Rules to Show Cause, as well as Plaintiff's repeated efforts to obtain information related to Defendant's income in this matter, appear to support Defendant's contentions in those regards. Also of note is that at the issuance of this Order, the second Rule to Show Cause Order remains under appeal [See EXHIBIT "G", attached hereto].

Plaintiff argues that *even if* Defendant's arguments are valid – which she denies – she is entitled to this information as a matter of law and in accordance with the South Carolina Family Court Rule 20.

Based upon the arguments of counsel, I make the following findings of salient fact:

FINDINGS OF FACT

Jurisdiction

1. I find that the parties are formerly husband and wife, and that during their marriage, they had two children, both of whom are now emancipated. I further find that the parties resided in Horry County, South Carolina throughout all or the majority of their marriage, at the time of their separation, and also continuously since that time.
2. I find that since their divorce, the parties have endured an acrimonious and litigious relationship which includes the filing of several contempt actions; a modification of custody action; and the within action which was instituted for assistance with college and related expenses.
3. I find that this Court has jurisdiction and continuing jurisdiction of the parties as well as the subject matter before it.

Separation and Divorce

4. On June 25, 2014, the parties reached two separate agreements which addressed their marital issues, and on July 3, 2014, Plaintiff/Mother filed an action for Separate Support and Maintenance, wherein she sought approval of the parties' agreements [See EXHIBIT "G", attached hereto]. On July 8, 2014, Defendant/Father filed an Answer and Counterclaim seeking a divorce on the ground of one year's separation, without

Page 3
JBT

cohabitation. A hearing was requested to approve their agreements, and Defendant then moved to supplement the pleadings to request a divorce simultaneous with the approval of their agreements. Plaintiff/Mother opposed Defendant's motion, and on July 14, 2014, the parties were granted Separate Support and Maintenance [See EXHIBIT "H", attached hereto].

5. On August 6, 2014, Plaintiff amended her complaint to request a divorce on the ground of adultery [See EXHIBIT "I", attached hereto]. On September 2, 2014, Defendant filed an Answer and Counterclaim to Plaintiff's Amended Complaint [See EXHIBIT "J", attached hereto].

6. The parties were ultimately divorced from one another on October 3, 2014.

Post-Divorce Litigation

7. On May 6, 2016, Defendant signed an affidavit in support of a Rule to Show Cause, wherein he alleged that Plaintiff had engaged in a pattern of alienation as between him and the then-minor children. The RTSC was issued, and after 3 days of trial, the matter was resolved, with Plaintiff agreeing, *inter alia*, to obtain counseling to address her pattern of alienation, and to pay attorney's fees to Defendant in the amount of \$20,000. The resulting Order was signed April 11, 2017.

8. On January 5, 2018, Defendant filed another affidavit in support of a RTSC, alleging both that Plaintiff had not complied with the April 11, 2017 Order, and also that Plaintiff had continued her pattern of alienation. The RTSC was issued, and trial was held December 10-14, 2018, and May 22-23, 2019. Although Plaintiff denied Defendant's allegations, after 5 days of trial, Plaintiff was found to be in contempt of court. However, Plaintiff has appealed that order and the appellate court has yet to issue its ruling.

9. On June 17, 2019 after the order from the second RTSC had been issued, Defendant /Father filed an action for emergency custody of the parties' youngest child (case number 2019-DR-26-1437), as the oldest child had become emancipated. On this same date, an *ex parte* Order was issued granting Father custody, and by Order dated June 21, 2019, and filed June 24, 2019, the *ex parte* Order was confirmed and custody remained with Father. Father's obligation to pay support was also terminated, and

Mother was prohibited from having any communication with the minor child outside of a therapeutic setting.

10. According to Father, at the behest of both the Guardian *ad litem* and the court-ordered counselor, he allowed an unsupervised visit at mother's home during the quarantine in March, 2020, following which the child did not return to Father's home. According to Mother, the child did not want to return to Father's home, nor could she force the child to return to Father's home. At the time, the child was 17 years of age.
11. On July 6, 2020, Mother filed a motion for child support. On July 8, 2020, Father filed a RTSC against Mother, alleging that Mother had contacted the minor child in violation of an absolute restraining order, and within days of the order being issued; and also alleging that Mother had failed to return the child following a scheduled visitation, or in the alternative that she had allowed the child to remain at her residence after a visitation had ended. The RTSC was issued, though due to COVID, the hearing did not occur until August 12, 2021, after the youngest child had become emancipated.
12. Mother's motion was denied, with the Court finding that the child should never have been at Mother's home, as Father had legal custody throughout the time in issue; and that Father had not only never relinquished physical custody, but he had also demanded that the child return to his home, to no avail.
13. Regarding Father's Rule, Father dismissed his allegation regarding the failure of the child to return to his home, but he proceeded on the issue of Mother allegedly communicating with the child within days of an order being issued which prohibited all contact between Mother and child. At the hearing, Mother acknowledged that her phone rang, and that there was a connection between her phone and that of the child. However, she claimed that the call was made from an unknown app and that she did not even know the phones had connected as she had turned the phone over and had walked away as soon as the phone started ringing. Although the connection remained for more than 20 minutes, Plaintiff maintained there was no communication between her and the parties' daughter, and thus no violation of the restraining order. The Honorable Ronald Norton found that Father had not proven that any communication had taken place, and Mother was thus found not to be in contempt of court.

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14. On August 16, 2021, the 2019 custody action was dismissed, based upon the emancipation of the child.

**Prepaid College Tuition &
Equitable Apportionment**

15. The South Carolina Code of Laws §20-3-620 (2008, as amended), provides as follows:

(A) In a proceeding for divorce a vinculo matrimonii or separate support and maintenance ... the court shall make a final equitable apportionment between the parties of the parties' marital property upon request by either party in the pleadings.

.....
(C) The court's order as it affects distribution of marital property shall be a final order not subject to modification except by appeal or remand following proper appeal.

16. The parties' Agreement as it relates to equitable apportionment was signed on June 25, 2014, and on July 22, 2014, it was approved by this Court and made its Final Order.

Neither party appealed the Order approving said Agreement.

17. Page 7 of the parties' Agreement provides as follows:

Upon division of assets as herein provided, the parties hereto do hereby agree that the manner in which they have divided all real and personal property represents a fair and equitable division of the assets of the parties arising out of the marital relationship.

Pages 10-11 of the parties' Agreement further provides that

Once approved and made the Order of this Court, the Family Court of the State of South Carolina shall have continuing jurisdiction to enforce the terms and conditions of this Agreement, along with any Order issued with respect thereto; and both Wife and Husband shall be subject to the contempt powers and jurisdiction of the Family Court of the State of South Carolina with respect to any breach or violation of this Agreement or the Order of this Court.

Wife and Husband hereby acknowledge and agree that this is a full and complete agreement with respect to all matters raised, and with respect to those which could have been raised between them, and is considered by them to be a fully-integrated agreement. It is the intent of the parties hereto that the provisions of this Agreement shall govern all rights and obligations of the parties, as well as all rights of modification as specifically stated within this

Agreement; and, further, the terms and conditions of this Agreement, and any Order approving the same, shall not be modifiable by the parties or any Court without the written consent of Wife and Husband.

The parties specifically agree that neither the Family Court of the State of South Carolina nor any other court shall have any jurisdiction to modify, supplement, terminate, or amend this Agreement, or the rights and obligations of the parties [Marital Settlement Agreement (MSA) pages 10-11].

GENERAL PROVISIONS:

B. This Agreement expresses the entire agreement between the parties and supersedes any prior understandings or agreements between them [MSA, page 11].

~~18. Attached to the parties' MSA is a Martial Assets Addendum (MAA), which is the supporting document for their agreement as to equitable apportionment. The parties' MAA reflects that a Prepaid Tuition college plan existed for both of the parties' children, and that further, Husband (Defendant herein) was to assume the debt related to said plan. Husband was provided neither a credit for the value of the plan nor for the value of the debt that encumbered the plan. It was included on the MAA to outline Defendant's college support obligation. By agreement of the parties, Husband's obligation was limited to what was set forth on the MAA, absent "the written consent of Wife and Husband". The parties further agreed that this Court did not even have jurisdiction to "modify, supplement, terminate, or amend [the parties'] Agreement, or the rights and obligations of the parties".~~

Interestingly, unlike most divorcing couples, Plaintiff and Defendant entered into two separate agreements - a Marital Settlement Agreement, and a Custodial Agreement [See EXHIBIT "A" and EXHIBIT "B" attached hereto]. They elected to address Defendant's financial obligation for college on the MAA, which was subject to enforcement but not modification, rather than in their Custodial Agreement which addressed Defendant's other financial obligations for the children and could have

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been modified based upon a substantial change of circumstances. Of note is that throughout their divorce proceedings, these parties were represented and counseled by well-respected members of the South Carolina Bar, as well as by well-respected forensic accountants; also of note is that their Agreements were extremely thorough. Accordingly, if they intended for Defendant's obligation to exceed what was noted, they knew how to make the appropriate provision. However, they not only specified Defendant's obligation, but they also impeded the ability of this Court to modify their agreement in any regards.

19. Considering the above, I find that the issue of college-related expenses has been addressed by the parties, and that their agreement is not subject to modification. Their agreement both created and limited Defendant's financial obligation for the cost of his children's college. In short, the parties' agreement is subject to enforcement, but not modification, and if Defendant had not fulfilled his obligation, Plaintiff could have held him in contempt of court.

20. Although Defendant's obligation to Plaintiff for assistance with their children's college-related expenses was addressed at the time they entered into their Marital Settlement Agreement, I find that this obligation is between Plaintiff and Defendant only. Accordingly, there is nothing to prevent the children from instituting an action for college-related financial assistance.

21. Plaintiff argues that the parties' Marital Settlement Agreement in no way interferes with her ability to pursue this litigation. The Court disagrees:

Public Policy

22. Plaintiff has argued that the Court's ruling in McLeod vs. Starnes, 396 S.C. 647, 723 S.E.2nd 198 (SCSC, 2012) supports her claim that Defendant should be responsible for college-related expenses for their children. However, I find that McLeod vs. Starnes is distinguishable from this case both factually and legally: Legally, the parties specified Dr. Capps' obligation for college expenses in a Marital Settlement Agreement, and they further specified that their agreement could not be modified by this or any other Court; however, the parties in McLeod vs. Starnes had no agreement regarding college at the time of their separation/divorce. Factually, in the McLeod matter, father and

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son appeared to have a good relationship: they were in regular communication regarding son's college education, father had approved of son's choice of college and had agreed in an email to repay all of the child's student loans upon graduation. 396 S.C. at 652. In addition, in that case father had also co-signed a promissory note for the child's student loans, and he agreed to pick up the child's "odd expenses" related to college; he also told the child to call him if he ever needed help. *Id.*

23. In contrast to McLeod vs. Starnes, Defendant in this instance was never consulted about college prior to the child's decision to go to USC. Furthermore, Dr. Capps and the child had a very strained relationship even before Plaintiff took the child to visit out-of-state and private colleges, and when Defendant refused to even consider paying for the child to live in and attend college in New York City, the estrangement between father and daughter increased to the point that the child expressed hatred of Dr. Capps on social media [See EXHIBIT "K", attached hereto]. The child's social media postings were not only disparaging, but they were potentially slanderous, as she claimed Defendant had refused to pay for her college and/or that he must not want her to attend college.
24. Although this Court has previously determined that Plaintiff has engaged in alienation tactics, that is not the issue in this instance, as regardless of Plaintiff's alleged contribution to the estrangement between father and daughter, the child has expressed pure hatred of Defendant, as well as of those whom she believes have assisted Defendant in some way.
25. In his affidavit dated September 25, 2020, initially presented at the temporary hearing on that same date, with a copy being provided at this hearing, Defendant begged this Court not to force him to turn over the child's college fund. According to Defendant's affidavit, he had repeatedly tried to get this child to attend counseling to address their relationship issues, and he had told his oldest daughter they would discuss college expenses as well as other issues in counseling. However, the child had refused to attend counseling. Defendant expressed concern that if he was forced to turn over the college account, his authority would be undermined and his daughter would learn "a very bad lesson". The court did not require Defendant to turn over the

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college account at the temporary hearing on September 25, 2020. On the date of this hearing, Defendant expressed that the account had been turned over to the child.

26. Interestingly, this Court notes that rather than cooperate with Defendant's efforts to repair his relationship with his children, Plaintiff elected to instead file an action and seek relief beyond that to which she had agreed at the time the parties entered into their Marital Settlement Agreement. This Court is confounded by Plaintiff's position, in that Defendant had apparently addressed directly with the children the conditions for receiving their college funds, and even assistance beyond merely those funds, though rather than cooperate with Defendant's efforts, and rather than encouraging the children to repair their relationship with Defendant, she instead allegedly* paid some of the oldest child's college expenses and then filed this action seeking to force Defendant to reimburse her. In addition, Plaintiff expressed to the oldest child that she (the child) needed to provide as many expenses as possible to

* Defendant claimed to have paid some of the child's college expenses but verification of such expenses has not been provided.

support the greatest amount possible in her claim for college expenses [See EXHIBIT "L", attached hereto].

27. I find that Plaintiff's actions only aggravated the estrangement between father and daughter, as is evident from the child's refusal to speak with her father about anything except her college expenses and health insurance.

28. Unlike in McLeod vs. Starnes the children of Dr. and Ms. Capps in this instance have shown total disrespect for Defendant. Regardless of whether Plaintiff has created the estrangement, or contributed to the estrangement, the fact is that the estrangement not only exists, but is to a degree that this court has seldom if ever experienced, and the oldest child's allegations of hatred toward her father greatly distinguishes the within matter from that of McLeod vs. Starnes.

29. Although Plaintiff points to McLeod vs. Starnes as precedent, father and child in that case appear to have a close emotional bond and they share a common affection for one another. That is in stark contrast to the facts of this case, where the child has

elected not to have a relationship with her father and has very clearly expressed that on social media.

30. Alienation is not the issue in this matter, and whether Plaintiff has created or contributed to the alienation is not for this Court's consideration. However, for the reasons noted, I find that - even if the issue of college was not addressed in the parties' Marital Settlement Agreement - issuing the order Plaintiff has requested would be contraindicated to public policy that divorced parents should encourage the relationship between children and the other parent.

McLeod vs. Starnes

31. As indicated, Plaintiff relies upon McLeod vs. Starnes, 396 S.C. 647, 723 S.E. 2d 198 (SC 2012), to support her request for college-related financial assistance. In that case, the Court determined that Father's refusal to contribute towards the child's college expenses proved the very ill that Risinger vs. Risinger, 273 S.C. 36, 253 S.E. 2d 652 (1979) attempted to alleviate, but which was overruled by Webb vs. Sowell, 692 S.E. 2d 543 (SCSC, 2010). In McLeod, the Court stated that

"Father articulated no defensible reason for his refusal other than the shield erected by Webb. What other reason could there be for a father with more than adequate means and a son who truly desires to attend college to skirt the obligation the father almost certainly would have assumed had he not divorced the child's mother?... [The child] has therefore fallen victim to the precise harm that prompted the courts... to hold that a non-custodial parent could be ordered to contribute towards a child's college education. Thus, this case amply demonstrates what we failed to recognize in Webb: sometimes the acrimony of marital litigation impacts a parent's normal sense of obligation towards his or her children. While this is a harsh reality, it is a reality nonetheless that Risinger sought to address.

McLeod vs. Starnes, 396 S.C. at 658-659.

32. In this instance, the child may have "fallen victim" to one parent's alienation tactics; however, it is the child who has posted some of the most vile and despicable comments that this Court has ever seen from a child towards a parent.

33. Additionally, despite the actions of one or both children, Defendant has repeatedly asked both of them to attend counseling, where he has indicated the costs of college

would be addressed. However, since reaching the age of majority the children have refused. From all appearances, at least one of the children has refused Defendant's assistance except on her terms, and I find that is not something the courts can or should embrace.

34. Despite two Rules to Show Cause instituted by Defendant, an action for custody instituted by Defendant, the involvement of numerous counselors and one alienation expert, and at least two different Guardians *ad litem*, this Court has never been made aware of any evil, crime, offense or wrongdoing of their father. Certainly there have been the normal disagreements that often occur between parent and child, but nothing to support the loathing that these children have expressed toward Defendant.

35. If the children had attended counseling, or had put forth any effort to repair their relationship with Defendant, or if they had come forward and explained the reasons for their contempt for their father, perhaps this Court could have found some commonality with the facts of McLeod vs. Starnes. Furthermore, unlike the facts of McLeod vs. Starnes, the children in this matter do not appear to even want a relationship with their father, and it is their father who has continued to try and rebuild that relationship, thus far to no avail. Accordingly, this case is distinguishable from McLeod vs. Starnes in that there is no indication that the acrimony of marital litigation has impacted Defendant's normal sense of obligation towards his children. Indeed, Defendant has gone to great lengths to try and be involved and influential in his children's lives, but he has made clear to them that they do not make the rules for his financial support, and he has provided clear terms for them to get his financial support. It is the children who have thus far elected to ignore this opportunity. Indeed, this Court does not even know if the children desire any assistance from Defendant beyond what has been provided.

Rissinger vs. Rissinger

36. Plaintiff also maintains that Defendant should be responsible for the children's college expenses according to standards set forth in Rissinger vs. Rissinger, 273 S.C. 36, 253 S.E. 2d 652 (1979). Therein, the Supreme Court instructed the trial court to apply the following factors when determining whether one or both parents should be

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JDF

required to contribute to a child's college expenses: (1) the characteristics of the child indicate that he or she will benefit from college; and (2) the child demonstrates the ability to do well, or at least make satisfactory grades; and (3) the child cannot otherwise go to college; and (4) the parent has the financial ability to pay for such an education.

37. I find that neither child is a party, neither has sought to become a party, nor has either provided an affidavit. Further, Plaintiff has had every opportunity to bring them in as parties, but she has not done so nor would she commit to even calling them as witnesses. Accordingly, this Court is not aware of grants or scholarships for which the children have applied or received; this Court is not aware of the children's outstanding college expenses; and this Court is not aware of whether the children are working in college or have worked in the summer to contribute toward these expenses. This is information that in this instance needs to come directly from the children. Additionally, the attached EXHIBIT "L" calls into question Plaintiff's motivation for instituting this action.

38. This Court also recognizes that if the children do want or need Defendant's assistance, the hurdle to cross *Rissinger* standard #3 (the child cannot otherwise go to college) will be very difficult, especially since Defendant offered to address college expenses in counseling, and the children refused that opportunity.

39. Plaintiff attempts by this action to recoup what she claims to have paid towards the oldest child's college expenses; however, Plaintiff also has a substantial income by way of alimony. Accordingly, she is not necessarily exempt from her obligation to assist with these expenses. Further, by all appearances, Defendant has fulfilled his obligation, at least as between Plaintiff and Defendant. Specifically, the total purchase price for the South Carolina Tuition Prepayment Program was \$74,646.44, with \$36,611.15 being set aside for the parties' oldest daughter Haley Katherine, and \$38,035.29 being set aside for the youngest child Emily.

40. This Court is also very concerned that Plaintiff involved the oldest child in her efforts to extract as much money from Defendant as was possible. Thus, even if the Court had not determined that Defendant's obligation to Plaintiff was limited by virtue of

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the parties' Agreement, Plaintiff has to some extent sabotaged her own request by involving the oldest child in a conspiracy to have Defendant financially responsible for "the highest level of need possible."

41. Considering the above, I find that the requirements of *Rissinger vs. Rissinger* have not been established, and that further, they cannot be established without the adult children, who in this instance, based on the facts of this case, I find to be necessary parties.

South Carolina Rule of Civil Procedure 19(b)

42. Given the particular facts of this case, there is no way this Court could address the financial needs of the adult children, or even determine if they would be entitled to this relief, without their presence as parties. In addition, because of the unusual facts, there is no way to assess Plaintiff's claims or Defendant's defenses to those claims, without the children being present as parties, especially in light of the Exhibit "L" which brings Plaintiff's motivations into issue. Thus, without the adult children, there is no way to determine whether a judgement is warranted, and if so, whether it would be adequate. Finally, given the facts of this case, Plaintiff is not prejudiced by this dismissal, as her entitlement was limited by the parties' MAA.

43. Considering the above, I find that Plaintiff's complaint should be dismissed pursuant to the SCRCP 19(b).

Based upon the above-recited Findings of Fact, I make the following Conclusions of Law:

CONCLUSIONS OF LAW

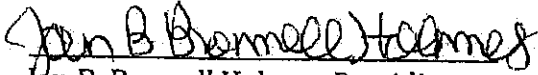
The General Assembly has previously vested with the Family Courts of this State the exclusive jurisdiction to hear and determine matters incidental to the termination of marriages as well as the enforcement of marital and custodial agreements, and also to enforce their Orders through contempt powers, pursuant to Title 20 of the South Carolina Code of Laws, 2008, as amended. After having reviewed the facts as well as the applicable

case law in this instance, and after having also considered the Rules of Procedure as well as the common law as well as public policy, it is

ORDERED, that Plaintiff's complaint is hereby dismissed, with prejudice, for the reasons noted hereinabove; and it is further,

ORDERED, that this ruling in no way impacts the adult children's ability to pursue an action against their father, if they so choose.

IT IS SO ORDERED, this 4th day of March, 2022, in Conway, South Carolina.


Jan B. Bromell Holmes, Presiding
Judge for the Family Court
Fifteenth Judicial Circuit

NOTICE TO ALL PARTIES: A VIOLATION OF THIS ORDER, WHICH IS DETERMINED TO BE A WILLFUL VIOLATION, MAY RESULT IN A FINDING OF CONTEMPT AND CORRESPONDING SANCTIONS SHALL THEN INCLUDE UP TO ONE YEAR'S IMPRISONMENT, A FINE OF UP TO \$1,500.00, UP TO 300 HOURS OF COMMUNITY SERVICE, OR A COMBINATION OF SOME OR ALL OF THESE PENALTIES. BE SO NOTIFIED!!

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INSURANCE STUDY COMMITTEE

AGENDA

Perry Mathis – Department of Insurance

Frank O’Neil – SLED

Stephen Clarke – Verisk

**Tim Ward – Program Manager, SC Medical Malpractice Association
South Carolina Restaurant and Bar Association**

Kimberly Cockrell – MADD

Robert Sanders – Preferred Specialty Insurance Brokers

Daniel Hinkle – American Association for Justice

Jay Thompson – Murphy and Grantland

Elizabeth Chaney – SCAJ

**Tuesday, December 10, 2024
10:00 A.M.
Room 105, Gressette Building**

Senators: Hutto, Massey, Turner

Representatives Kirby, Caskey, Bailey

Governor’s Appointees: Lee Jedziniak, Rob Tyson and Charlie Condon

Staff: Sharon Wilkinson, Kate Crater, Steven Gilbert, Madison Faulk, Jimmy Hinson,

Bryan Triplett and Steve Davidson