

JUDICIAL MERIT SELECTION COMMISSION)
)

In the Matter of: F.P. Segars-Andrews)
Candidate for)
Family Court Judge)
Ninth Judicial Circuit)
)

**WITNESS AFFIDAVIT
FORM**

I will appear to testify concerning the qualifications of the above-named candidate and will produce all documents in my possession, if any, which will further develop or corroborate my testimony.

I understand that this written statement must be completed and returned to the Judicial Merit Selection Commission at least five (5) days prior to the hearing at which I wish to testify in order for the commission to hear my testimony and that the deadline for complaints is

In regard to my intended testimony, I will offer information as to the following:

- (1) Set forth your full name, age, address, and both home and work telephone numbers.

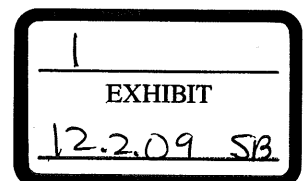
William R. Simpson, Jr. (Age 40)

See attached affidavit

- (2) Set forth the names, addresses, and telephone numbers (if known) of other persons who have knowledge of the facts concerning your testimony.

Charlene Green

See attached affidavit



Ginny P. Brown
8 South Brooks Street (Work Address)
Manning, South Carolina 29102
(803) 435-8847 (Work)

See attached affidavit

Steven S. McKenzie
8 South Brooks Street (Work Address)
Manning, South Carolina 29102
(803) 435-8847 (Work)

Has personal knowledge of the facts and circumstances of the sworn testimony in the affidavits mentioned above.

- (3) State the nature of your testimony regarding the qualifications of the above-named judicial candidate, including:
- (a) specific facts relating to the candidate's character, competency, or ethics, including any and all allegations of wrongdoing or misconduct on the part of the candidate;

Judge Segars-Andrews was the sitting Judge in my case involving division of marital property. After my hearing, I discovered that her husband was a practicing attorney in Charleston. Her husband and one of my wife's attorney were representing a client in another matter. In that matter, my wife's attorney and Judge Segars-Andrews husband shared a "six figure attorney's fee." I asked Judge Segars-Andrews to recuse herself from my case because her husband and opposing counsel had a financial relationship. She had a hearing on April 14, 2006. I was present along with my attorney. Judge Segars-Andrews recused herself from my case. Judge Segars-Andrews went into great detail about the relationship between her husband and opposing counsel. She did not disclose the amount, but did say the money was significant and was six figures. I am enclosing that transcript for your review. Judge Segars-Andrews later recanted her recusal and issued an Order wherein the division of property favored my wife. My wife had abandoned me and moved to Wyoming with her paramour. She left me and my two children, yet Judge Segars-Andrews gave her a considerable portion of the marital estate. I complained to the Office of Disciplinary Counsel. They did nothing. I later found out that Judge Segars-Andrews was the Vice Chairman of the reviewing agency that discipline's Judges. In my opinion, Judge Segars-Andrews

is not fit to be a Family Court Judge. She states it herself in the transcript on April 14, 2006 transcript. She later overturns her own decision. Her actions were inappropriate. Her husband and opposing counsel were collecting a fee on a case while my case was going on. She was on the reviewing agency that determined whether or not she had a conflict. Money is the reason for my case being decided against me. When I called her hand on it, she weaseled her way out of it by getting the ODC to cover her. She has made a mockery of the judicial system and has proven once again that it is not what you know but who you know.

- (b) specific dates, places, and times at which or during which such allegations took place;

On February 14, 2006, at the Clarendon County Family Court, Manning, South Carolina;

On April 14, 2006, at the Sumter County Family Court, Sumter, South Carolina.

- (c) names of any persons present during such alleged actions or possessing evidence of such alleged actions; and

Sandra L. McGarry
Verbatim Court Reporter
7208 Sunview Drive
Columbia, South Carolina 29209

- (d) how this information relates to the qualifications of the judicial candidate.

Ms. McGarry has tapes of the hearings in question. The information on the tapes will show that Judge Segars-Andrews admitted that her husband's law firm and one of the opposing counsel had made a large amount of money together on a case and that she was aware of this fact before the hearing. Thereby showing the appearance of impropriety and that she should have recused herself from hearing the the case.

- (4) Set forth a list of and provide a copy of any and all documents to be produced at the hearing which relate to your testimony regarding the qualifications of the judicial candidate.

1. Notice of Motion dated March 28, 2006;
 2. Affidavit of Lon Shull dated January 2005;
 3. Instructions for Order dated May 3, 2006;
 4. Affidavit of Charlene Green;
 5. Transcript of Record dated April 14, 2006;
 6. Affidavit of WR Simpson, Jr dated April 12, 2006; and
 7. Affidavit of Ginny Brown dated October 24, 2006
- (5) State any other facts you feel are pertinent to the screening of this judicial candidate.

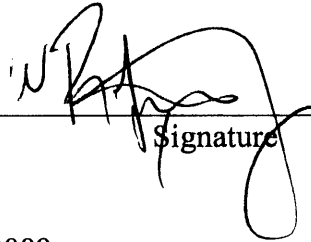
See the letter dated September 20, 2006.

I understand that the information I have provided herein is confidential and is not to be disclosed to anyone except the Judicial Merit Selection Commission, the candidate and counsel.

WAIVER

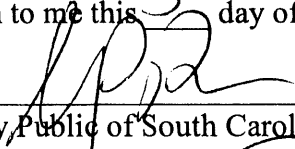
I further understand that my testimony before the Judicial Merit Selection Commission may require the disclosure of information that would otherwise be protected by the attorney-client privilege. Therefore, in order that my complaint may be fully investigated by the commission,

I hereby waive any right that I may have to raise the attorney-client privilege as that privilege may relate to the subject of my complaint. I further understand that by waiving the attorney-client privilege for this matter, I am authorizing the commission to question other parties, including my attorney, concerning the facts and issues of my case.



Signature

Sworn to me this 5 day of Oct, 2009



Notary Public of South Carolina L.S.

My commission expires: 2/29/12

September 20, 2006

Henry B. Richardson, Esquire
Disciplinary Counsel
Commission on Judicial Conduct
1015 Sumter St., Ste 111
Columbia, South Carolina 29201

Henry B. Richardson, Esquire
Disciplinary Counsel
Commission on Lawyer Conduct
1015 Sumter St., Ste. G08
Columbia, South Carolina 29211

Re: F.P. Segars-Andrews, Family Court Judge, Jan L. Warner, Esquire of Warner
Payne and Black, LLP. and James T. McLaren, Esquire of McLaren & Lee.

Dear Mr. Richardson:

As you can see from the above referenced matters that I am writing you in regards to a family court matter from Clarendon County. Since this matter involves the Vice Chairman of the Commission on Judicial Conduct, and attorneys, I do not expect to get any relief from your agency. However, I was informed that I needed to start with your agency, so I am writing you first and will seek alternative measures once you have denied my relief. First, I want you to understand that I am a bit jaded in my beliefs. I have been through a divorce and have experienced a system that I perceive to be based on cronyism, potluck and mammon. Also, the system of justice in this state is out of control, out of touch with the public, and out of touch with reality.

First I will give you some background on the situation and then let you know my specific grievances. My father and I run a run a farming operation in Clarendon County. The farming business grew to from approximately 40 acres of land inherited by my father to a thousand plus acres that both my father and I now run as Simpson Farms, LLC. Said farming operation produces corn, wheat and soybeans. Prior to 2000, the business was run without the protection of an LLC and my father was largely in control of the distribution of the profits and losses from the farming operation. The land accumulated by both my father and myself was bought during approximately thirty years of owner financing and putting earnings from the farm back into the land. I was allowed to become a part of the farming operation on my father through his desire to hand down to his son the farming operation. So, I have a lot of sweat equity invested in the farm.

My father was represented by Steven S. McKenzie, Esquire of the law firm of Johnson,

Henry B. Richardson, Esquire
Disciplinary Counsel
September 20, 2006
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McKenzie and Robinson, LLC in his divorce. I was also sued in my father's divorce by my own mother because I was a member of the LLC. I was represented by Scott L. Robinson, Esquire of the law firm of Johnson, McKenzie and Robinson LLC. The wife of my father and my mother (Daisy Wallace Simpson) was represented by two separate lawyers. The first, attorney was Jan L. Warner, Esquire of Warner Payne and Black, LLP. The other attorney was James T. McLaren, Esquire of McLaren & Lee. The Honorable R. Wright Turbeville heard this matter and at the end of the proceeding the Court ruled that the my portion of the LLC was not divisible by the Court. That ruling came out on December 31, 2004 (See the attached Order as Exhibit "1"). That Divorce Decree is now being appealed by both sides. Also, Lon Shull of Andrews & Shull, P.A. was a witness in the father's case for the mother regarding attorney's fees (See the Affidavit of Lon Shull, P.A. at Exhibit "2").

The Court in my father's case awarded attorney's fees and costs to Mr. Warner and Mr. McLaren in the amount of \$85,000.00. That case was tried over a seven day period and involved allegedly over two million in assets. There was no fault in that case on either side and my mother was awarded 33% of the marital assets. (See the Order of Attorney's fees in Simpson vs. Simpson (I) at Exhibit "3") In my case, the case was tried over a two day period. The Court valued the assets at approximately \$750,000.00. The debt of the marriage was over \$200,000.00. That left a net marital estate of approximately \$500,000.00 mostly in real estate. My wife was awarded 40% of the estate (over \$200,000.00). She had already been adjudicated an adulterer. She lost custody of her two children to me (she does not exercise visitation and I am left with all of the financial burden of the children) and was living with another man whom she was not married. Judge Segars-Andrews awarded to Mr. Warner and Mr. McLaren attorney's fees and costs in the amount \$83,039.91. It does not take a rocket scientist to see that something is going on between the Judge and the attorney's for my wife. (See the equitable division Order of Simpson II at Exhibit "4").

The background on my case is as follows: The equitable division hearing was bifurcated from the divorce hearing that was being heard on March 23, 2005. Prior to that hearing, on July 30, 2004, my wife and her grandfather met me at my attorney's office. We negotiated and entered into a property settlement agreement on that day. My wife moved in with her boyfriend shortly after the agreement was signed. (See a copy of the of the Order approving the agreement and Separation Agreement at Exhibit "5").

On September 16, 2004, my wife received a telephone call from my mother's attorney's office, Jan L. Warner. Prior to that call, my mother was constantly calling my wife. I know all of this because I was paying the cellular telephone bill for my wife, and I have copies of the bill. (See the cellular telephone bills from attached as Exhibit "6"). (My mother had already sued me in her divorce from my father and had vowed to bankrupt our farming operation. She informed me of this fact. So, I was suspecting that my mother would attempt to get Mr. Warner and my

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wife together. At a temporary hearing, Mr. Warner and Mr. McLaren presented to the Court an attorney's fees affidavit for over \$60,000.00. There was no detailed billing in the affidavit. Later, I was called to a deposition at Mr. Warner's office. At that time I realized how much Mr. Warner wanted to bankrupt my farming operation. He had prominently displayed in his office a framed picture of a check made out to him and my mother drafted on the account of W.R. Simpson Farms in the amount of \$1,500.00. The photograph was framed and prominently displayed for the world to see. He did not even conceal the account number on the check. Anyone could use that number to access my farming operation account. He simply did not care. He wanted to show off his "trophy" to the world. (See Exhibit "7" the photographs of the check from Mr. Warner's office in Columbia). The conversation with Mr. Warner's office on September 16, 2006 lasted one minute and was at 2:07 p.m. The call is an incoming call from Mr. Warner's office and the telephone number is 803-799-0554. I am assuming that who ever called left a voice mail because the next call my wife makes is to voice mail. My wife next calls Mr. Warner's office at 2:13 p.m. and spoke to someone their for five minutes. All of this is important because on September 19, 2004 my wife filed a Motion to vacate and set aside the July 30, 2004 agreement and her attorneys were the same two attorneys that had represented my mother against myself and father in his divorce action; i.e, Jan L. Warner and James T. McLaren. Said agreement was set aside by the Honorable George M. McFaddin, Jr. on December 28, 2004. (See the Order setting aside the agreement at Exhibit "8"). This agreement was set aside because they alleged that my wife was not competent even though she is the one that negotiated the agreement with her grandfather.

At a separate hearing, I was granted a divorce based upon my wife's adultery during the marriage and her subsequent moving into the home of her paramour shortly after our separation. (See Order of Divorce at Exhibit "9"). Said hearing was on March 24, 2005. I was previously granted custody of our two children and my wife pays child support to me to this day. In our original agreement, my wife and I were awarded joint custody of the children (See the Original separation agreement at Exhibit "10"). She had to give up custody of her children so that she could get the agreement overturned (i.e., prove she was incompetent).

The equitable division and attorney's fees issues were held in abeyance. Since those issues were contested, those issues were heard before Judge F.P. Segars-Andrews on February 14 and 16 of 2006 in Clarendon County Family Court. The Final Order of Equitable Division, Child Support, and Attorney's Fees and Costs was filed on June 13, 2006 and is currently being appealed. At the time of the hearing (February 14 and 16, 2006), I thought that it was peculiar that the hearing was set before a Judge from Charleston as opposed to one from my own circuit. However, I believed that it might be good to have a new Judge who did not know any of the parties to the matter or the attorneys (my attorneys had never had a case in front of Judge Segars-Andrews, and I assumed the Mr. Warner and Mr. McLaren who were from Columbia and would not have been before her often). Mr. Warner's requested and had the hearing date set.

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We went before Judge Segars-Andrews on February 14, 2006 (Valentine's Day). On the first day of trial, I was the plaintiff, therefore my attorneys put up my case on that date. During my case in chief, the Judge was typing a great deal on her computer. Throughout the day I would hear a noise coming from her computer. I realized the noise was the same noise that a computer makes when it is receiving an incoming message (Instant messenger). When the noise was made by the computer, the judge would look at her computer and then type for awhile. This occurred throughout my case-in-chief and the Judge paid very little attention to my case. You do not have to take my word for this fact. Kathy Snelling was the Court Reporter and her backup tapes should have recorded the incoming message noise. Further, the Court's computer should have a record of the incoming and outgoing messages on it. Also, I have provided affidavits from witnesses that indicate the Judge's inattention on February 14, 2006. (See the Affidavits of the witnesses listed at Exhibit "11"). During the my wife's case-in-chief on February 16, 2006 the Court was very attentive and hardly looked at her computer. It was only later that I found out that the trial Judge was not impartial and at the least her appearance in the case was inappropriate.

After the hearing, my attorney was alerted to the fact that Judge Segar-Andrews' husband's law firm, Andrews & Shull, P.A. was involved in the matter of *Wooten vs. Wooten*, 364 S.C. 532, 615 S.E.2d 98 (2005) with James T. McLaren, co-counsel for my wife. Apparently, Lon Shull of that law firm and James T. McLaren were co-counsels in that matter representing the same client. Said case went all the way to the Supreme Court and was settled in November of 2005 while my case was pending. Also, Lon Shull was an expert witness against myself and father in my father's divorce in 2005 (See the Affidavit of Lon Shull of Andrews and Shull, P.A.). Said affidavit was provided to Judge Segars-Andrews in the Motion for a New Trial. (See Motion and attached documents at Exhibit "12"). After my attorney filed a motion for Judge Segars-Andrews to recuse herself from the matter prior to her issuing her final Order. A hearing regarding said motion was held on April 14, 2006. At the hearing Judge Segars-Andrews recused herself from the trial. I am providing a copy of the transcript from said hearing. (See transcript at Exhibit "12"). In the transcript, the Court states: "Once it was mentioned to my husband, I was told something that I had forgotten." (See transcript p. 3, lines 6-12). The Judge knew about this matter and even discussed it with a third party (her husband). Should the Court be discussing my case with anyone while her decision is pending?

Although she denied my attorney's motion, she recused herself on her own motion because her husband's law firm and James T. McLaren had worked on another case (she did not disclose the name of the case, but it was not *Wooten*). However, she did so because James McLaren and her husband's law firm earned a substantial fee (she has not disclosed the amount of the fee) and she believed that she had the obligation to inform the parties before hand of the association with Mr. McLaren and her husband's law firm. On page 3 of the April 14, 2006 transcript, you will note that the Judge made some comments off the record. I believed that this

Henry B. Richardson, Esquire
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was odd because this matter was heard in open Court. She admitted to making the following statement "off the record" when the motion to reconsider was heard via telephone conference at in my attorney's office: "You can make any motion you want to make or submit anything you want to submit, I will not change my mind." She made that statement off the record at the April 14, 2006 hearing and then admitted she made that statement during the reconsideration motion. What was my attorney or myself to think about a Judge who is adamant that the case will have to be tried again? On page 5 of the transcript the Judge has stated that on line 2 "I mean, that is not a small amount of money." On page 5 and 6 lines 23-25 on page 5 she states the following: I mean if you all want to do some research on it, I'll be glad to look at some research, but I just don't think—I think it should have been disclosed; I didn't think about it, I didn't (page 6, lines 1) disclose it, and I don't see how I can remedy that." Everyone left the hearing that day believing that Judge Segars-Andrews would not change her mind no matter what was presented to her. Her demeanor was such that I and my attorney were led to believe that research was futile because as she stated on page 7 of the April 14, 2006 transcript: lines 14-18 "I'll be glad to look at anything, but I'll tell yo, I've looked at the Rules over and over, because I feel like I really have done a disservice by not disclosing this and causing your clients to have to go through another trial." (See the Motion and affidavit of Nathan Crystal at Exhibit "13").

After the April hearing, Mr. McLaren and Mr. Warner filed a memorandum with an affidavit from Professor Nathan Crystal. Professor Crystal was hired by the attorney's for my wife (Warner and McLaren) to give an opinion regarding the ethical dilemma that the Court faced. On May 3, 2006, the Court reversed herself on the ruling of recusal. Simply, because the Defendant's hired Professor Crystal to right an affidavit that said the Judge did not have to recuse herself. My attorney immediately filed the aforementioned Motion to Reconsider. Said Motion to Reconsider was heard via telephone on July 26, 2006. The motion was denied by the Court.

Of Course I was upset and confused about how a person who supposedly is to be fair and impartial in Court would reverse herself. After said motion failed, I discovered that Mr. Warner, attorney for my wife, was Publically Reprimanded by the South Carolina Supreme Court and that Nathan M. Crystal represented Mr. Warner in his case before the Supreme Court. (See Exhibit "14" a copy of the ruling *In the Matter of Warner.*). How come this fact was not disclosed to the Court? How can a law school professor who teaches ethics write an affidavit for a former client in favor of that client's position without disclosing to the Court his relationship to the Defendant's attorney?. Why didn't Mr. Warner or Mr. McLaren disclose this fact? If they are being above board and honest with the Court, should they not have an ethical obligation to be honest to the Court and disclose that their expert once represented Mr. Warner?.

I would ask the Disciplinary Counsel to investigate the following:

1. The nature and extent of the relationships with Judge Segars-Andrews, her husband's law firm and James T. McLaren as well as Jan Warner, and Nathan

- Crystal (obviously there were at least two cases; are there anymore);
2. Since the Judge will not disclose the amount of money made by her husband's law firm and Mr. McLaren, I would ask that you investigate this matter and require that all of the monies that the attorneys in this matter and the Judge's husband's law firm have earned in joint relationships be disclosed. I believe that this is important because it will show the level of involvement between the trial Court and the attorney's for the Defendant.;
 3. Listen to the tape from the February 14, 2006 hearing and decide for yourself if the Court was paying attention during the trial of this matter. As stated previously, the Court Reporter's tape will have a noise that was coming from the computer and it should be on her back up tape. The noise will sound like a bell and you should hear it throughout the day on February 14, 2006;
 4. How did this case get assigned to a Judge from Charleston with connections to the Defendant's attorneys? I would ask for you to fully investigate this.
 5. Why didn't Mr. McLaren and Mr. Warner disclose to my attorneys and the trial Court that their was an on-going relationship with the Judge's husband's law firm including hiring Lon Shull (Andrews & Shull) as a witness against me in the divorce of my parents wherein I was member of the LLC?;
 6. Why would a Court award attorney's fees in the amount of \$83,000.00 plus costs against me when my wife left me for another man, she lost custody of her children and I was awarded a divorce on the grounds of adultery. To me considering the above, it appears that there was impropriety going on between the Judge and the attorney's for my wife. I would ask that this be fully investigated?;
 7. Why is a photograph of a check written on my farming account hanging in a frame in the law offices of Jan Warner wherein anyone can see it along with my account number? It certainly concerns me that my checking account number is being displayed in Mr. Warner's office;
 8. I would ask that the solicitation of my wife by Mr. Warner's office be investigated.
 9. I would ask that someone explain to me how I am to pay \$83,039.91 when I have only \$320,655.00 in assets (according to Judge Segars-Andrews) without declaring bankruptcy? Said amount represents 26% of my net worth and I owe an additional \$233,000.00 in debt accumulated during the marriage. How could any

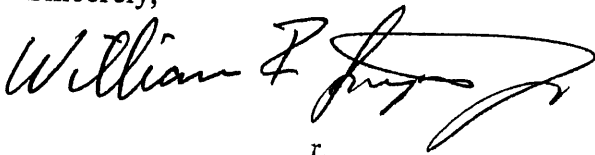
Henry B. Richardson, Esquire
Disciplinary Counsel
September 20, 2006
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sane person expect that me to pay this amount with the existing debt load and all of my assets are tied up in farm land? Also, how can I raise my children when the Court has taken away my ability to make a living? Something improper is going on here and it needs to be investigated fully.

10. How can my wife sign a fee contract to pay Mr. Warner and Mr. McLaren over \$400.00 an hour when she was allegedly incompetent? Did Mr. Warner and Mr. McLaren waive a magic wand and she became competent?
11. Why would Warner and McLaren take my case on with so little in assets if not to bankrupt me and my father's farming operation?
12. I believe that the Judge's actions in discussing my case with anyone including her husband are improper and should be thoroughly investigated for misconduct.
13. I would ask that disciplinary counsel to fully investigate the billing practices of Mr. Warner and Mr. McLaren. Between the two cases my (my father's case, which I was a party, and my case) they billed their clients almost \$600,000.00 in attorney's fees. All those bills occurred in less than a year and half of litigation. This appears to be outrageous and how could they have time to have any additional clients with the hours they were billing on the two cases.

I understand that this matter involves complaints against a judge and attorneys. I am writing to both of your offices in hopes that someone will read this letter and investigate the matter. It is impossible to fully explain this situation in a letter. I would ask that you send an investigator to discuss the matter with myself, father and other witnesses. I will provide further and proof at that time.

Sincerely,


r.

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON)
William R. Simpson, Jr.,)
) **PLAINTIFF,**)
) **VS.**)
))
Becky H. Simpson,)
) **DEFENDANT**)

IN THE FAMILY COURT OF THE
THIRD JUDICIAL CIRCUIT
DOCKET NUMBER: 04-DR-14-315

**NOTICE OF MOTION AND MOTION
FOR A NEW TRIAL BASED UPON
FAILURE OF THE DEFENDANTS'
COUNSEL TO DISCLOSE THE
COURT'S CONFLICT OF INTERESTS.**

PM 3 34

**TO: THE DEFENDANT ABOVE NAMED AND HER ATTORNEYS JAMES T. MCLAREN,
ESQUIRE AND JAN L. WARNER, ESQUIRE :**

YOU WILL PLEASE TAKE NOTICE that the Defendants by and through their undersigned attorney will move before the Honorable F.P. Segars-Andrews. Judge for Family Court of the Ninth Judicial Circuit, at the Sumter County ^{Family} Courthouse on the tenth (10) day after service hereof at 2:00 p.m., or at such other time the Court deems appropriate pursuant to Rules 52, 59, and 60 of the South Carolina Rules of Civil Procedure for an Order setting aside, vacating, altering, amending, clarifying and /or reconsidering the final Order in this matter. Said Motion is based upon the following:

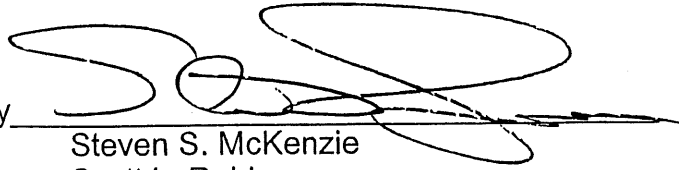
1. The Plaintiff has discovered that in the matter of Daisy Wallace Simpson vs. William Robert Simpson, Sr., individually and as shareholder/member of Simpson Farms, LLC and William R. Simpson, Jr., as a shareholder/member of Simpson Farms, LLC Docket Number: 03-DR-14-128 and 2004-DR-14-128; (hereinafter "Simpson I") that Lon H. Shull, III, Esquire of the Charleston County Bar prepared an eleven page affidavit at the request of Jan L. Warner, Esquire and James T. McLaren, Esquire in support of their attorney's fees and costs petition in the aforementioned matter. That the Plaintiff was a party to that lawsuit involving his mother and father after being made a party by Mr.

Warner and Mr. McLaren and because he was a member of Simpson Farms LLC. That Mr. Warner and Mr. McLaren knew or should have known that Mr. Shull was/is a partner in the law firm of Andrews and Shull, PC located at 755 Johnnie Dodds Blvd, Mt. Pleasant, South Carolina 29464.

2. The Plaintiff would show that Mr. Shull is a partner with the principal partner, Mark O. Andrews, Esquire, in said law firm. That Mr. Shull's affidavit (attached hereto and marked as Exhibit "A") goes into great detail regarding the assets and liabilities of the Plaintiff. By way of illustration the following is contained in Mr. Shull's affidavit at paragraph 36 page 11 "I have worked with both Mr. McLaren and Mr. Warner." On page 1 of his affidavit, Mr. Shull states: At the request of Jan I. Warner and James T. McLaren, I have reviewed the court order of December 31, 2004 and the fee affidavit of Mr. McLaren and Mr. Warner (hereinafter referred to as "Fee Affidavit"). As a result, Mr. Shull was asked to give a professional opinion as to the reasonableness of the attorney's fees in Simpson I. In paragraph 21, page 6, Mr. Shull makes the following conclusion:" The fact that Simpson, Jr. never reported adjusted gross income of more than \$18,000.00 per year yet, according to his testimony, acquired assets of in excess of \$850,000.00 with no explanation. tells (sic) me as a lawyer that there was shifting funds and/or assets in between his father and him."
3. The Plaintiff would show that he was not aware that Mr. Shull's partner in his law firm, Mark O. Andrews, is the husband of the Honorable F.P. Segars-Andrews. (Trial Judge in Simpson II in which Simpson Farms LLC was divided by the Court). This fact was not known until after the trial of the matter by the Plaintiff or his trial counsel. The Plaintiff would show that this fact was well known to the attorney's for the Defendant. That they failed to notify opposing counsel that Mr. Shull was the law partner of the husband of the trial judge. The Defendant's attorneys also failed to inform the Court of Mr. Shull's involvement in Simpson I and had a duty to inform the Court that her husband's law partner had rendered a legal opinion against the Plaintiff in another lawsuit that dealt with many of the same properties in Simpson II; e.g Simpson Farms, LLC.
4. The Plaintiff would ask for a new trial based upon a failure of the Defendant's Counsel to disclose to the Court Mr. Shull's work against the Plaintiff in the Simpson I matter and a failure of the Defendant's counsel to disclose that Mr. Shull was the law partner of the husband of the trial Court.

JOHNSON, MCKENZIE & ROBINSON, LLC

By

A handwritten signature in black ink, appearing to be a combination of the initials 'SM' and 'SR' with a horizontal line extending to the right.

Steven S. McKenzie
Scott L. Robinson
Attorneys for Defendant
16 North Brooks Street
Manning, SC 29102
(803) 435-0909

March 28, 2006

McLAREN & LEE
ATTORNEYS AT LAW
1508 LAUREL STREET
COLUMBIA, SOUTH CAROLINA

TELEPHONE (803) 799-3074
FACSIMILE (803) 252-3548

JAMES T. McLAREN*
C. DIXON LEE, III**

**ALSO ADMITTED IN NC

January 18, 2005

PLEASE REPLY TO:
POST OFFICE BOX 11809
COLUMBIA, SOUTH CAROLINA
29211-1809

VIA FAX AND MAIL

The Honorable R. Wright Turbeville
Family Court Judge
For The Third Judicial Circuit
Post Office Box 696
Manning, South Carolina 29102-0696

RE: *Daisy Wallace Simpson vs. William Robert Simpson, Sr., et al.*
Docket No: 03-DR-14-128

Dear Judge Turbeville:

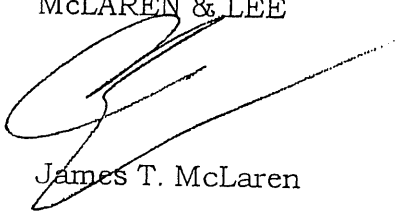
Please find enclosed the Affidavit of Lon H. Shull, III submitted in support of Plaintiff's request for attorney fees, suit money and costs in connection with the above matter.

By copy of this correspondence to opposing counsel, I am transmitting the enclosed Affidavit to each of them by FAX this date.

With kindest regards, I am

Very Truly Yours,

McLAREN & LEE


James T. McLaren

JTM/mms

Enclosure

cc: Daisy W. Simpson w/enclosure
Jan L Warner, Esquire w/enclosure (via FAX)
Steven S. McKenzie, Esquire w/enclosure (via FAX)
Scott L. Robinson, Esquire (via FAX)

2005 APR 12 PM 3 54
CLARENCE
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CLARENCE

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

DAISY W. SIMPSON,

PLAINTIFF,

VS.

SIMPSON FARMS, LLC.,

DEFENDANT.

) IN THE FAMILY COURT FOR THE
) THIRD JUDICIAL CIRCUIT

) DOCKET NO.: 2004-DR-14-128

) AFFIDAVIT OF
) LON SHULL, III

CLARENDON COUNTY
2008 APR 12 PM 6:4

PERSONALLY APPEARED BEFORE ME, Lon H. Shull, III, who, being duly sworn, says:

1. I am a member of the South Carolina Bar, having been admitted in November 1984. I have been a member of the Fee Resolution Committee of the Charleston County South Carolina Bar, and the Executive Committee of the Charleston County Bar.
2. Over the years, I have concentrated my practice in the matrimonial area and have presented various CLE topics for the South Carolina Bar, South Carolina Trial Lawyers Association, South Carolina Association of Certified Public Accountants and Charleston County Bar.
3. I am a partner in the firm of Andrews and Shull in Mt. Pleasant, South Carolina. I am a fellow of the American Academy of Matrimonial Lawyers.
4. At the request of Jan L. Warner and James T. McLaren, I have reviewed the court order of December 31, 2004 and the fee affidavit of Mr. McLaren and Mr. Warner (hereafter referred to as "Fee Affidavit").

5. In most instances, I would require that attorneys provide me with their entire file for review; however, in this situation, I believe I have enough information on which to base an opinion about the value of legal services. The court's Decree and the offers of settlement in this case are most telling.

6. For example, Mr. Simpson, Sr.'s offer of paying \$200,000.00 over ten years with no alimony was based upon his assertion that the marital estate was worth approximately \$460,00.00 and that his income was much less than the Court ultimately determined.

7. The May 14, 2004 offer made by Mr. Warner and Mr. McLaren on behalf of their client was somewhat unusual due to the fact that, through the discovery process, neither was sure of the total value of the marital estate, or Mr. Simpson, Sr.'s income.

8. It almost seems that Mr. McLaren and Mr. Warner's letter of May 14, 2004 was prescient when it stated that coming up with the monetary values of the assets was difficult due to the way in which Mr. Simpson and his son did business and the failure of discovery responses. They cited a number of examples, including Simpson, Sr. running Simpson, Jr.'s farm income through Simpson, Sr.'s account; Simpson, Sr. not operating the LLC for the purposes stated for the formation of the LLC; Simpson transferring S&T property after the filing of the action, yet never being removed from the loan liability; and Simpson, Jr. earning a small income but acquiring substantial assets in paying down mortgages and managing a rather affluent lifestyle.

9. According to the Fee Affidavit, the offer of May 14, 2004 goes further to state "we also believe Simpson, Jr.'s income is significantly greater than he has reported. . . . We believed that funds have been siphoned off with the intent of hiding the same from our client and purchasing capital assets and real property in a secretive way to attempt to avoid detection Simpson, Jr. and Simpson, Sr. are in business together and are, with others, engaging in a concerted effort to reduce our client's share of the marital assets and interfere with the resolution of this case. Without wasting a lot of time, we believe that income figures reported by your clients of the income tax returns we have now seen are, at best, understated."

10. There was no substantive counteroffer; however, in July 2004, it appears that discussions took place during which Mr. Warner and Mr. McLaren offered to accept \$750,000.00 in equitable division and \$2,000.00 per month alimony with their client paying their fees. A few days later, they offered to accept \$900,000.00 with no alimony and their client paying their fees. .

11. Again, according to the Fee Affidavit, Mr. Simpson's lawyer never responded.

12. According to the Decree, this case was tried for the better part of seven days over a period of better than three months. During this trial, a significant number of exhibits were introduced by the Plaintiff (91) and the Defendant (30). As an attorney, I found this to be most confusing, and frankly did not understand how a successful farmer could not tell the Court what he owned and what he was worth. The fact the Mr. Simpson transferred assets a week or so after the

action was commenced set the tone for him making her lawyers work for everything they got from him and about him.

13. The Offer of Compromise made on July 8, 2004 by Mr. Warner and Mr. McLaren was as follows:

1. Payment of \$750,000.00 tax-free within thirty (30) days.
2. Payment of \$2,000.00 per month as alimony until Mrs. Simpson's death, Mr. Simpson's death, or Mrs. Simpson's remarriage.
3. Both Simpsons would give tax indemnifications to Mrs. Simpson and hold her harmless from potential tax issues regarding prior joint tax returns.
4. All parties would retain personal property in possession except for the Kawasaki Mule that would go to Mrs. Simpson.
5. Mrs. Simpson would pay her own attorney's fees and her own expert's fees and there would be mutual releases.
6. This Offer was based upon a down payment of \$400,000.00 to \$500,000.00 with a balance over a relatively short period of time secured by a mortgage and life insurance.

14. At this point in time, Mrs. Simpson was willing to accept \$750,000.00 tax-free and \$2,000.00 per month alimony, and she would pay her own attorney's fees.

15. Because Mr. Simpson Sr. did not wish to pay taxable alimony, Mrs. Simpson offered to take \$900,000.00 tax-free with \$400,000.00 to \$500,000.00 down and the balance of over seven to ten years at a reasonable interest rate

with the same indemnifications, security, and life insurance. In that situation, she would also pay her own attorney's fees.

16. The Final Decree of December 31, 2004 awarded Mrs. Simpson \$1,000.00 per month as permanent periodic alimony, required Mr. Simpson to pay \$16,734.00 in past due medical obligations, required Mr. Simpson to transfer to Mrs. Simpson \$539,151.00 in real estate and other accounts plus cash of \$244,904.00. The equitable division awarded by the Court was \$120,000.00 less than Mrs. Simpson had offered to take (\$900,000.00) in July that included Mrs. Simpson's waiver of alimony and her payment of her own attorney's fees and costs. Therefore, it is obvious that the Court awarded quite a bit more than Mr. Simpson offered, and more than Mrs. Simpson had offered to settle considering the alimony and what further the Court is to award in attorney's fees to Mr. Warner and Mr. McLaren.

17. A large number of the Court's findings are consistent with the apparent problems that Plaintiff's attorneys had in securing discovery as an example. The Court's determination of Mr. Simpson, Sr.'s Financial Declaration was not accurate; that it had been difficult for the Court to determine the income, expenses and wealth of the parties; Mr. Simpson, Sr. took inconsistent positions regarding his transfer to Simpson, Jr. of the property in the LLC; that Mr. Simpson told Ms. Amos that the LLC owned the farming operations and the farm equipment when in fact it did not; that Mr. Simpson could not explain sixty items of equipment listed on his general ledger that he stated he no longer owned; that Mr. Simpson did not report the sale of Timber (a certain Kershaw County

property) in the year of 2000; that Simpson, Jr. and Simpson, Sr. basically divvied up income based on their respective needs without any corporate structure and/or explanation; that Simpson, Sr. testified on numerous occasions he didn't know what he owned and made very little effort to categorize or evaluate his assets, and the fact that Mr. Simpson's income and assets greatly exceed that which has been reported on his Financial Declarations.

18. The Court apparently suffered from the same difficulties as the Plaintiff's Counsel in not knowing what Simpson, Sr.'s true income and assets were.

19. Reviewing the Order and the lack of evidence from Simpson, it seems that the Court came very close to the figures determined by Ms. Lindhart as far as the real estate was concerned.

20. Of interest to me was that the Simpsons spent a lot of time and effort with regard to the value of the stock in Agent Owned Reality. On the face of a letter from Mr. Loadholt, it was obviously worth nothing to anyone other than to Mrs. Simpson and could not be sold. Despite this letter, the value of the stock continued to be contested by the Defendant. This caused Plaintiff to bring Mr. Loadholt to Court.

21. The fact that Simpson, Jr. never reported adjusted gross income of more than \$18,000.00 per year yet, according to his testimony, acquired assets of in excess of \$850,000.00, with no other explanation, tells me as a lawyer that there was a shifting of funds and/or assets in between his father and him.

22. Further, Mr. Simpson, Sr.'s testimony that he purchased property with cash so that sellers could avoid taxation and he didn't know the value of his assets made the consideration shown on the face of deeds unreliable.

23. The Court also found that the discovery process was significantly extended and obfuscated, which is exactly where Plaintiff's attorneys found themselves and complained about in their May 2004 letter.

24. From my review of the Order and Fee Affidavit, I believe that only stubbornly persistent representation resulted in the full disclosure of the Defendant's income and the marital assets. Less determined, or less experienced lawyers and experts would not have "gotten to the bottom" of Simpson's deception, delay and obfuscation. This is especially so, given the absence of contemporary compensation for their work.

25. In reviewing the summary of time expended by the Plaintiff's counsel, it does not seem at all inordinate. This is especially so given the actions of Defendant, the lengths to which the lawyers were required to go and the preparation for, travel to, and participation in seven days of trial.

26. It further appears to me that as competent as Mr. Warner and Mr. McLaren are, the attempted deceptions of the Defendant; his use of two lawyers, the late production of discovery and the apparent conspiracy of a father and son required the efforts of two lawyers and their staff to adequately represent the Plaintiff.

27. Further, Simpson, Sr. claimed that the residence and acreage that he had received at this mother's death was non-marital property. As this Court

found, the clear preponderance of evidence was that the home and acreage were transmuted to marital property. In fact, given the evidence cited by the Court in its Order, the position taken and prosecuted by the Defendant was specious and not in good faith yet Plaintiff and her lawyers were required to disprove it.

28. In reviewing correspondence of Plaintiff's counsel, it was their opinion that the marital assets were worth somewhere in the neighborhood of \$2,000,000.00 as of May of 2004. The Court found the total marital estate at \$2,327,654.00, which is very close to the early assessment of Plaintiff's counsel which, given the lack of discovery response from Defendant, must have been based upon their experience.

29. The Offer made by Plaintiff's counsel to take \$750,000.00 in cash or to take \$900,000.00 and no alimony or attorney fees is very close to what the Court awarded (\$780,000.00 in equitable division and \$1,000 a month in alimony).

30. Given the fact that when fees are assessed and the payments are made to the experts, Mrs. Simpson's award, excluding alimony, should exceed \$1,000,000.00, the May 13, 2004 offer to accept 50% of the assets and \$75,000.00 in fees is probably something that Mr. Simpson should have thought about.

31. Given my review of the Court's Order and the Attorneys Fees Affidavit of Mr. McLaren and Mr. Warner, it appears that the total expense of the Plaintiff's legal team is substantial. It further is my opinion that all of the efforts expended on the Plaintiff's behalf were absolutely necessary and indeed were made

necessary by the conduct of the Defendant Simpson, Sr. and/or his legal team.

Given the fact that the Court found that the Defendant Simpson:

- a. transferred marital assets into what he claimed to be a non-marital corporation;
- b. deliberately failed to list items of personal and real properties even to his own experts;
- c. refused even at trial to testify as to his opinion of "what he owned" and its value;
- d. completely misrepresented the value of the marital estate during discovery, the settlement process and through the trial in this matter;
- e. failed to pay \$16,734.00 in past due medical obligations;
- f. wasted the Court's time in arguments of separate inherited property for the marital home and attempt to value the stock in Agent Owned Realty;
- g. shifted assets and income to Mr. Simpson, Jr. in an effort to hide these assets and income from this Court, his wife and the Internal Revenue Service and engaged in other duplicitous and disingenuous acts and testimony

the Plaintiff should not have to pay for her own legal and trial expenses as they were caused by the above.

32. In my opinion, as a frequent litigator in the Family Courts of South Carolina, a frank disclosure of the assets and income, given the long marriage and contributions of the Wife, would have forced this case to an early settlement

with a combined legal cost of approximately 1/10 of the fees necessarily incurred by the Plaintiff. The Defendant caused her to incur these fees both in his conduct in hiding the marital estate and in the meritless positions taken by him at trial.

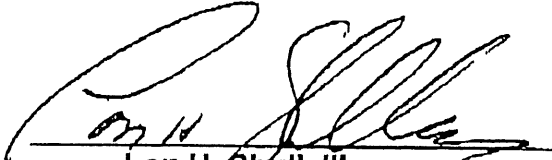
33. It further appears that to require the Plaintiff to be responsible for her own fees would decimate the equitable division received by her in this action. Given the length of this marriage and the resulting wealth of the Defendant, this would be a significant injustice. Even with the division ordered by the Court, the Defendant Simpson Sr., appears well able to afford to the penny, the fees set forth in Mr. McLaren and in Mr. Warner's affidavit.

34. The Court's findings at pages 23 and 24, with regard to the efforts required of Ms. Lindhart is absolutely incredible. Never has the below signed seen where the efforts of a real estate appraisal were required to this extent. Her efforts in discovering the existence of ownership interests are nothing short of amazing. That she was required to do so by the omission and representations of the Defendant Simpson Sr. is ludicrous. The Defendant, in my opinion, should be responsible for every penny of her fees and the fees of Mr. Hobbs.

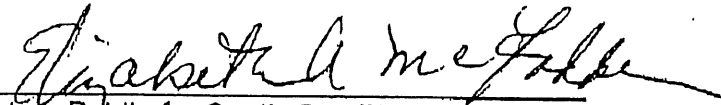
35. The most amazing aspect of this claim is the effort, persistence, talent and experience that was required to discover what should have been disclosed in the Defendant's first financial declaration. It is admirable that this level of representation was rendered even though Ms. Simpson could not pay them for their work. Given the contingency of the compensation and the lengths to which they were required to use their not inconsequential talents and the fact that

requiring Ms. Simpson to pay these fees would decimate her share of the marital estate, it is below signed's opinion that a full measure of attorney fees and costs should be awarded.

36. I have worked extensively with both Mr. McLaren and Mr. Warner and believe them to be marital litigators of the highest caliber and quality. They are both known throughout the state and are "fellow Fellows" in the American Academy of Matrimonial Lawyers. The hourly rate set forth in their attorney's fees affidavit is reasonable for lawyers of this stature and is customary in cases of this nature.


Lon H. Skull, III

SWORN to and subscribed before me
this day of January, 2005


Notary Public for South Carolina
My Commission expires: 6-7-2006

Transaction Report

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Transaction(s) completed

No.	TX	Date/Time	Destination	Duration	P. #	Result	Mode
533	MAR-28	18:03	803 799 2517	0'01'50"	016	OK	N ECM

Johnson, McKenzie & Robinson, LLC

Attorneys at Law
16 North Brooks Street
Manning, South Carolina 29102

William H. Johnson*
Steven S. McKenzie
Scott L. Robinson

Telephone 803.435.0909
Facsimile 803.435.2858

March 28, 2006

The Honorable Frances P. Segars-Andrews
Judge of the Family Court
Charleston County
Post Office Box 934
Charleston, SC 29402-0934
VIA FACSIMILE (843)-958-4415

Re: W. R. Simpson, Jr. vs. Becky H. Simpson
Docket #: 04-DR-14-243 & 315

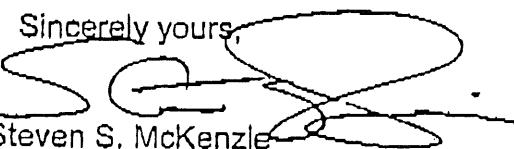
Dear Judge Segars-Andrews:

Prior to your Honor making any further decisions in this case, please read the attached Motion for a New Trial along with the accompanying affidavit.

It is my client's position that had you known about Mr. Shull's involvement in his father's case (in which my client and the LLC were parties) you would have recused yourself from the trial of this matter and that any further involvement by your honor in this matter would violate Canon 2 of the Code of Judicial Conduct.

Therefore, we would ask that you not render any further opinions or Orders in this matter until the Motion for a New Trial can be heard.

Sincerely yours,



Steven S. McKenzie

Transaction Report

Send

Transaction(s) completed

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Sincerely yours,


Steven S. McKenzie

Transaction Report

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Transaction(s) completed

No.	TX Date/Time	Destination	Duration	P. #	Result	Mode
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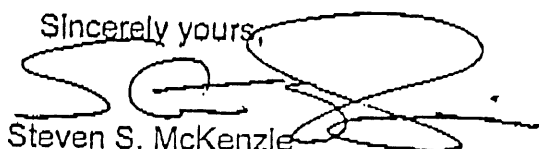
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Therefore, we would ask that you not render any further opinions or Orders in this matter until the Motion for a New Trial can be heard.

Sincerely yours,


Steven S. McKenzie

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CLARENDON)
)
 William R. Simpson, Jr.,)
)
 Plaintiff,)
 CLARENDON CO.)
 vs.)
)
 Becky H. Simpson,)
)
 Defendant.)

IN THE FAMILY COURT OF THE
 THIRD JUDICIAL CIRCUIT
 DOCKET NO.: 04-DR-14-315

2006 APR 12 PM 3:56

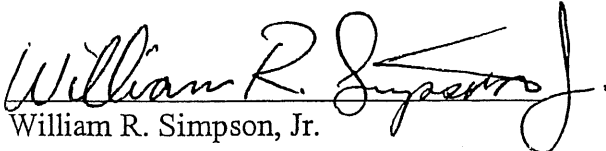
**AFFIDAVIT IN SUPPORT OF NOTICE OF
 MOTION AND MOTION FOR A NEW
 TRIAL BASED UPON FAILURE OF THE
 DEFENDANT’S COUNSEL TO DISCLOSE
 THE COURT’S CONFLICT OF INTEREST**

PERSONALLY appeared before me the undersigned, who after being duly sworn does state and depose as follows:

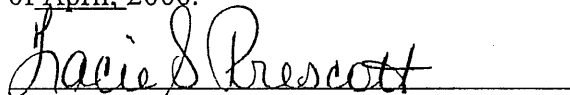
My name is William R. Simpson, Jr., and I am the Plaintiff in the above entitled action. I was named as a Defendant in Docket No: 03-DR-14-128 and 04-DR-14-128, my parent’s divorce case in support of the Affidavit for Attorney’s Fees prepared by Jan L. Warner, Esquire and James T. McClaren, Esquire, and Affidavit was submitted by Lon H. Shull, III, Esquire of the Charleston County Bar of the Law Firm of Andrews and Shull, PC. I did not realize until after the close of this case, that Mr. Shull was in fact the partner of Mr. Mark O. Andrews, Esquire, who is the husband of the Honorable F. P. Segars-Andrews, the trial Judge who heard the above captioned matter. I believe that this is a conflict if interest for Judge Segars-Andrews to have heard this matter in light of the involvement of her husband’s firm in the prior action to which I was a party. This matter was well-known to defense counsel in this case, Jan L. Warner, Esquire and James T. McClaren, Esquire, as they represented my wife, Becky H. Simpson, in the above captioned matter as well as my mother, Daisy Simpson, in the prior divorce case to which I was a party and in which Mr. Shull submitted an Affidavit in support of their Affidavit for Attorney’s Fees. This

matter was not disclosed to myself or to my attorneys prior to trial, and quite frankly, was not brought to the Court's attention by defense counsel. I believe that this situation creates a conflict of interest, or at least the appearance of impropriety which should have been brought not only to the Court's attention, but also to my attention or to that of my attorneys prior to the hearing in this matter so that we would have had full opportunity to have disclosure about that matter. Had I known this prior to this matter being filed, I would have filed a Motion asking Judge F. P. Segars-Andrews to recuse herself and ask that this case be reassigned to a different Judge. This information was not discovered until after the close of this case, and therefore I did not possess the requisite knowledge to waive this potential conflict at any time prior to or during the trial in this matter. For the reasons set forth hereinabove, I would request that Judge F. P. Segars-Andrews recuse herself from this matter and grant our Motion for a New Trial in front of another Judge.

RESPECTFULLY SUBMITTED,


William R. Simpson, Jr.

SWORN to before me this 12th day
of April, 2006.


Notary Public for South Carolina
My Commission Expires: 08.20.2011

E

INSTRUCTIONS FOR ORDER

HEARD FEB. 14, 2006

DATE: 5-3-06

SIMPSON, JR. V SIMPSON AND INGLE
04-243

PL: STEVEN MCKINZIE	FAX: 803-435-2858
SCOTT ROBINSON	FAX: 803-435-2858
DF: JAN WARNER	FAX: 803-799-2517
CARRIE WARNER	FAX: 803-799-2517
JIM MCLAREN	FAX: 803-252-3548
GAL: JAMES STODDARD	FAX: 803-773-6995

After reviewing the memorandum provided from the defendant's counsel in this matter and the cannons, this court determines that it has a duty to rule in this case and that there was no duty to disclose the working relationship between McLaren and Andrews and Shull.

Mr. McLaren, please prepare an order to this effect. Send a copy to opposing counsel twenty-four hours prior to sending it to my office

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

AFFIDAVIT OF CHARLENE GREEN

After being duly sworn, the deponent would state the following:

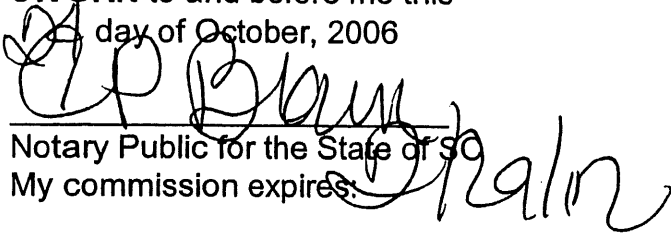
1. My name is Charlene Green and I am the aunt to the above named Plaintiff.
2. On February 14 and 16, 2006, I was in attendance at the final divorce hearing of Bill and Becky Simpson.
3. During the testimony of Bill and his witnesses I continuously heard a sound that I can only explain as a "ding".
4. The noise was quite distracting and I began to look around the court room to try and place where the sound was coming from. I noticed that the judge seemed to be distracted and then I discovered that every time I heard the "ding" the judge would look at her computer screen and begin typing .
5. At first I thought she may be typing facts that she found interesting in the case; however, I couldn't understand why one minute she would be listening to court testimony then when the computer made the "ding" she would become distracted with whatever was going on with the computer.
6. At lunch I brought this to the attention of Bill's attorney's assistant. She (Ginny) informed me that she heard the noise as well and explained to me what the noise was.
7. Ginny said that the judge was instant messaging someone. She explained that every time someone sent the judge a message the computer would ding to let her know that she had a message.

8. I found this really odd as how can a judge listen to testimony and make an informed decision when she isn't even paying attention to what is going on in the court room; however, I found it even more odd that when the second (2nd) day of trial resumed on February 16th I did not hear the noise again. The Judge was very attentive that day and appeared to listen to facts as presented by the Defendant's attorneys.

9. I was very surprised at how the Judge conducted herself in the court room. She clearly paid attention on the 16th but on the 14th she was clearly distracted. I do know that February 14, 2006 is Valentine's Day. However, that is no excuse for not doing your job.

Further the deponent sayeth not.

SWORN to and before me this
14 day of October, 2006


Notary Public for the State of SC
My commission expires:



CHARLENE GREEN

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

AFFIDAVIT OF GINNY BROWN

After being duly sworn, the deponent would state the following:

1. My name is Ginny Brown and I am employed at the law offices of Johnson, McKenzie & Robinson, LLC as a legal assistant.

2. On February 14 and 16, 2006, I was in attendance at the final divorce hearing of Bill and Becky Simpson.

3. During the testimony of Bill Simpson and his witnesses, I continuously heard the Judge's computer's instant messenger alert sound. I am very familiar with the noise that the incoming instant messenger makes. I use the service myself and have it on my computers at work and at home. Instant messenger is just what its name implies. It allows an individual to send an "instant message" to another computer. The message will appear on the receiver's computer screen and is announced by a noise that is very distinctive. The receiver of the message can respond to the message or ignore it. The Judge continuously answered her instant messenger throughout the day on February 14, 2006 (Valentine's Day). I know this because as soon as the instant messenger alert sounded, she would turn to her screen and begin typing.

4. At one of the breaks, I inquired with the attorneys in my firm if they heard the noise. Both Mr. McKenzie and Mr. Robinson had heard the noise coming from the Judge's computer; however; neither of them use instant messenger and were unfamiliar with how it operates.

5. The instant messenger noise or "ding" is very distinctive and should be on the

court reporter's tapes (Kathy Snelling). Also, if the Court saved her messages in her archives it should be on her computer.

6. The noise and the Judge's activity on the computer were very distracting and appeared as though she was paying little attention if any to Bill Simpson's witnesses.

7. On the February 16, 2006, (the second (2nd) day of trial) the Judge was very attentive to the witnesses and I do not recall any "dings" from her instant messenger.

8. I do know that February 14, 2006 is Valentine's Day and it appeared that the Court was otherwise preoccupied.

Further the deponent sayeth not.


SWORN to and before me this

24th day of October, 2006



Notary Public for the State of SC

My commission expires: 10/15/2010



Ginny Brown

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

FAMILY COURT

TRANSCRIPT OF HEARING
04-243 and 315

SIMPSON)
versus)
SIMPSON)

Sumter, South Carolina
April 14, 2006

BEFORE:

THE HONORABLE F. SEGARS-ANDREWS
FAMILY COURT JUDGE

APPEARANCES:

STEVEN MCKENZIE, ESQUIRE

JAMES MCLAREN, ESQUIRE
JAN WARNER, ESQUIRE

Sandra L. McGarry
7208 Sunview Drive
Columbia, S.C. 29209

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(NO EXHIBITS)

1 THE COURT: OKAY; THIS IS SIMPSON VERSUS SIMPSON, CASE
2 NUMBER 04-243 AND 315 -- I THINK IT'S BEEN CONSOLIDATED. THIS STARTED
3 OUT AS A MOTION FILED BY THE PLAINTIFF ASKING ME TO RECUSE MYSELF
4 BECAUSE MY HUSBAND'S LAW PARTNER WAS INVOLVED IN ANOTHER,
5 ARGUABLY, RELATED CASE.

6 I DENIED THAT MOTION; HOWEVER, ONCE IT WAS -- I MENTIONED THIS
7 TO MY HUSBAND, I WAS TOLD THAT--SOMETHING THAT I HAD FORGOTTEN--
8 MR. MCLAREN AND MY HUSBAND'S LAW FIRM HAS ALSO BEEN INVOLVED IN
9 ANOTHER MATTER TOGETHER THAT DOES -- NOT INVOLVING A SMALL AMOUNT
10 OF MONEY, AND IT IS SOMETHING THAT IF I HAD REMEMBERED THAT I WOULD
11 HAVE DISCLOSED AND ASKED YOU INITIALLY IF YOU WANTED ME TO RECUSE
12 MYSELF.

13 I DID NOT THINK ABOUT THAT, SO I'M GOING TO HAVE TO RECUSE
14 MYSELF. YOU ALL HAVE TO RETRY THE CASE.

15 MR. MCKENZIE: THANK YOU, YOUR HONOR. DO YOU WANT ME
16 TO PREPARE AN ORDER, OR WILL THE COURT PREPARE ONE? OR--

17 THE COURT: I'LL PREPARE ONE.

18 MR. MCKENZIE: THANK YOU, YOUR HONOR.

19 MR. MCLAREN: DO YOU WANT US TO ADDRESS THIS?

20 THE COURT: IF YOU ALL WANT TO MAKE ANY KIND OF MOTION
21 ON THERE, I JUST DON'T THINK THERE IS ANYTHING I CAN DO, BECAUSE I
22 DID NOT THINK ABOUT THAT BEFORE THE TRIAL. I WILL SAY THIS -- WE DON'T
23 NEED TO GO ON THE RECORD FOR THIS--

24 (THERE WERE SOME COMMENTS
25 MADE OFF THE RECORD)

1 MR. MCLAREN: YOUR HONOR, IF I UNDERSTAND THE RULES, THEY
2 HAVE TO SHOW BIAS OR PREJUDICE, AND THEY HAVE SHOWN NEITHER. YOUR
3 HONOR HAS INDICATED THAT YOU DIDN'T KNOW -- HAVE A CONSCIOUSNESS
4 OF ANY DEALINGS I HAD WITH YOUR HUSBAND OR HIS PARTNER WHEN YOU
5 TRIED THE CASE.

6 OBVIOUSLY, YOU DID SO WITHOUT BIAS OR PREJUDICE, NONE HAS BEEN
7 ALLEGED OR PROVEN, AND I WOULD RESPECTFULLY QUESTION -- WHEN
8 YOU CONSIDER WE TRIED THIS CASE AT GREAT COST TO THE PARTIES, AND
9 THE RULING HAS BEEN -- THE INSTRUCTIONS FOR THE RULING HAVE BEEN
10 ISSUED, AND I WOULD RESPECTFULLY ASK THAT YOU RECONSIDER THAT.

11 IT'S -- YOU HAD A CONSCIOUSNESS OF IT, MAYBE, BUT THERE WAS
12 NO BIAS OR PREJUDICE, NOR HAVE THEY ALLEGED ANY, AND MY UNDER-
13 STANDING OF THE LAW, WHICH IS CITED IN OUR MEMO, THEY'VE GOT TO SHOW
14 BIAS AND PREJUDICE, WHICH THEY HAVEN'T. NOR HAVE THEY ALLEGED IT.

15 MR. WARNER: THE PROBLEM IS THAT THEY MADE A MOTION
16 FOR 59, 50 AND 60--

17 THE COURT: WELL, I'M NOT GRANTING THEIR MOTION.

18 MR. WARNER: I UNDERSTAND.

19 THE COURT: BUT, AS I AM NOT SUPPOSED TO -- I MEAN, I
20 UNDERSTAND THE CANONS, AND IF I HAD THOUGHT ABOUT THIS ON THE
21 FIRST DAY OF TRIAL, I WOULD HAVE DISCLOSED IT AND SAID, YOU ALL
22 NEED TO FIND ANOTHER JUDGE.

23 I DID NOT THINK ABOUT IT. I HEARD THE CASE, I DECIDED THE CASE.
24 WHEN YOU SENT ME THAT MOTION, I THOUGHT IT WAS A FRIVOLOUS MOTION,
25 AND I WAS TALKING TO MY HUSBAND ABOUT IT AND HE SAID, DID YOU THINK

1 ABOUT THIS? YOU KNOW, AND I JUST -- I MEAN, I JUST DO NOT THINK IN
2 GOOD CONSCIENCE -- I MEAN, THAT IS NOT A SMALL AMOUNT OF MONEY, AND
3 IT WAS A FEW YEARS AGO, BUT, STILL -- AND IT'S SOMETHING THAT I DON'T
4 THINK WOULD PREJUDICE ANY JUDGE, BUT IT STILL SHOULD HAVE BEEN
5 DISCLOSED; AND, I CAN'T, AT THIS POINT, REMEDY THAT.

6 IT SHOULD HAVE BEEN DISCLOSED, I DIDN'T THINK ABOUT IT, SO I
7 DIDN'T DISCLOSE IT. I DON'T SEE HOW I CAN REMEDY IT.

8 MR. WARNER: WELL, JUDGE, I THINK THE ISSUE IS WHETHER
9 THAT AFFECTED YOUR DECISION OF THIS CASE. I MEAN, THERE'S A LOT OF
10 THINGS THAT GO ON IN THE WORLD THAT MAYBE SHOULD HAVE DISCLOSED;
11 BUT, NOBODY HAS ALLEGED THAT ANY OF THIS HAS AFFECTED YOUR OPINION.
12 THEY HAVE NOT -- NO AFFIDAVIT WAS FILED -- I UNDERSTAND YOU DENIED
13 THEIR MOTION, BUT THE FACT IS IF YOU HADN'T -- BEFORE THE FACT, IF IT
14 DID NOT AFFECT YOUR DECISION, WE'VE GOT A THREE-DAY CASE HERE THAT,
15 IF WE NEED TO REDO, I MEAN, IT'S GOING TO BE AN EXTREMELY -- I MEAN
16 OUR CLIENT HAS NOW MOVED TO COLORADO, AND IT IS A SUPER HUGE
17 PROBLEM.

18 IF WE NEED TO RETRY IT, WE'LL RETRY IT, BUT, IF YOUR HONOR TOOK
19 THIS CASE ON AND DECIDED IT WITHOUT THAT IN THE BACK OF YOUR MIND,
20 I DON'T KNOW WHERE THERE IS AN ISSUE ABOUT DISQUALIFICATION. I
21 DON'T KNOW WHETHER THERE IS AN ISSUE ABOUT DISCLOSURE, TO BE VERY
22 FRANK WITH YOU.

23 THE COURT: I MEAN, IF YOU ALL WANT TO DO SOME RESEARCH
24 ON IT, I'LL BE GLAD TO LOOK AT SOME RESEARCH, BUT I JUST DON'T THINK --
25 I THINK IT SHOULD HAVE BEEN DISCLOSED; I DIDN'T THINK ABOUT IT, I DIDN'T

1 DISCLOSE IT, AND I DON'T SEE HOW I CAN REMEDY THAT.

2 I THINK THAT -- YOU KNOW, I MEAN, FRANKLY, I THINK THAT I'M DOING
3 THE WRONG THING FOR BOTH OF YOUR CLIENTS. I THINK IT WAS AN UNBIASED
4 RULING, AND IT'S GOING TO END UP COSTING BOTH OF YOUR CLIENTS MORE.
5 AND, I FEEL -- YOU KNOW, I FEEL BAD ABOUT IT, BUT I'VE GOT TO FOLLOW THE
6 RULES, AND I JUST--

7 MR. WARNER: I'M JUST--

8 THE COURT: I UNDERSTAND THAT, PERHAPS, IF -- IN OTHER
9 WORDS, IF YOU ALL APPEALED IT, YOU ALL WOULD HAVE TO SHOW BIAS.

10 MR. MCKENZIE: RIGHT.

11 THE COURT: I DON'T THINK YOU COULD. I MEAN, I THINK IT'S
12 A RULING THAT BASICALLY ANY JUDGE WOULD MAKE, BUT I CAN'T GO BACK
13 AND DISCLOSE THIS.

14 MR. MCKENZIE: YES, MA'AM. AND, YOUR HONOR, HAD MY
15 CLIENT KNOWN ABOUT THIS -- WE DIDN'T KNOW THERE WAS ANY ASSOCIATION
16 AT ALL -- I DIDN'T KNOW YOUR HUSBAND EVEN PRACTICED LAW, AND DIDN'T
17 KNOW YOUR HONOR; AND, YOU KNOW, HAD WE KNOWN THAT, ANY
18 ASSOCIATION WITH MR. MCLAREN, WE WOULD HAVE ASKED THAT YOU RECUSE
19 YOURSELF.

20 THE COURT: AND, I THINK THEY HAVE THAT RIGHT.

21 MR. MCKENZIE: THANK YOU, YOUR HONOR.

22 MR. MCLAREN: YOUR HONOR, IN OUR MEMO THAT I HANDED
23 UP -- AND I WOULD APPRECIATE IT IF YOU WOULD TAKE THE TIME TO READ
24 IT BEFORE YOUR HONOR MAKES UP YOUR FINAL MIND -- MAKE YOUR FINAL
25 DECISION IN THAT -- I THINK AT THE BOTTOM OF PAGE 10 AND 11, CITING

1 THE ARNELL (PHONETIC) CASE, IT'S NOT ENOUGH FOR A PARTY SEEKING
2 DISQUALIFICATION TO SIMPLY ALLEGE BIAS, THEY MUST SHOW SOME
3 EVIDENCE OF BIAS; AND, IN HERE THEY HAVEN'T.

4 THE COURT: BUT, YOU UNDERSTAND, I'VE DENIED THEIR
5 MOTION?

6 MR. MCLAREN: RIGHT; I UNDERSTAND THAT.

7 THE COURT: AND I'M--

8 MR. MCKENZIE: THIS IS A MOTION FROM THE COURT, YOUR
9 HONOR; IS THAT CORRECT?

10 THE COURT: CORRECT.

11 MR. MCKENZIE: SUA SPONTE.

12 MR. MCLAREN: THIS HAS, OBVIOUSLY, A DIFFERENT TWIST TO IT,
13 AND IF WE COULD HAVE THE OPPORTUNITY TO BRIEF THAT--

14 THE COURT: I'LL BE GLAD TO LOOK AT ANYTHING, BUT I'LL
15 TELL YOU, I'VE BEEN -- I HAVE LOOKED AT THE RULES OVER AND OVER,
16 BECAUSE I FEEL LIKE I REALLY HAVE DONE A DISSERVICE BY NOT DISCLOSING
17 THIS AND CAUSING YOUR CLIENTS TO HAVE TO GO THROUGH ANOTHER TRIAL.
18 I WISH--

19 MR. MCLAREN: AND, THE CASE YOU ARE REFERRING TO WAS --
20 YOUR HUSBAND WAS NOT DIRECTLY INVOLVED IN, THAT WAS HIS LAW
21 PARTNER.

22 THE COURT: I KNOW.

23 MR. MCLAREN: LON SHULL, AND THAT WOULD CERTAINLY
24 BE AN INDIRECT BENEFIT AS A MEMBER OF THE FIRM, BUT I JUST THINK THAT'S
25 AN UNRELATED ISSUE.

1 THE COURT: IT CERTAINLY IS UNRELATED. I MEAN, IF YOU
2 CAN SHOW ME SOMETHING THAT WOULD MAKE ME FEEL LIKE THAT I SHOULD
3 SIGN THIS ORDER, I'LL DO IT, BUT--

4 MR. MCLAREN: CAN WE HAVE A WEEK OR SO TO GET TOGETHER
5 ANOTHER MEMO FOR YOU? WE'RE CLOSED TOMORROW.

6 THE COURT: SURE; I'M ON VACATION NEXT WEEK, BUT--

7 MR. WARNER: WILL A WEEK FROM MONDAY BE ALL RIGHT?

8 THE COURT: UM-HUM.

9 MR. MCKENZIE: THANK YOU, YOUR HONOR.

10 (THEREUPON, THE FOREGOING

11 HEARING WAS ADJOURNED.)

CERTIFICATE OF REPORTER

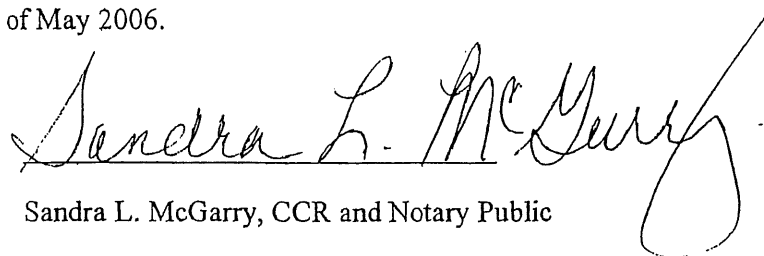
STATE OF SOUTH CAROLINA)

COUNTY OF SUMTER)

I, Sandra L. McGarry, official Court Reporter for the State of South Carolina and Notary Public in and for the State of South Carolina at Large, hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the requested proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Family Court for Sumter County, South Carolina, on the 14th day of April 2006.

I FURTHER CERTIFY that I am neither kin, counsel, nor interest to any party hereto, nor am I financially interested in said cause.

IN WITNESS WHEREOF, I have hereunto set my Hand and Seal at Columbia, South Carolina, this 9th day of May 2006.



Sandra L. McGarry, CCR and Notary Public

in and for the State of South Carolina.

My Commission expires 09/26/15.