

STATE OF SOUTH CAROLINA

COUNTY OF HAMPTON

RENEE S. BEACH, PHILLIP BEACH,  
ROBIN BEACH, SAVANNAH TUTEN,  
AND SETH TUTEN,

Plaintiffs,

v.

GREGORY M. PARKER, GREGORY  
M. PARKER, INC. d/b/a PARKER'S  
CORPORATION, BLAKE GRECO,  
JASON D'CRUZ, VICKY WARD,  
MAX FRATODDI, HENRY ROSADO,  
AND PRIVATE INVESTIGATION  
SERVICES GROUP, LLC,

Defendants.

IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT

C/A No. 2021-CP-25-00392

**MOTION TO COMPEL PRODUCTION  
OF SUBPOENAED MATERIAL ON  
BEHALF OF GREGORY M. PARKER,  
GREGORY M. PARKER, INC, d/b/a  
PARKER'S CORPORATION, BLAKE  
GRECO AND JASON D'CRUZ**

Defendants Gregory M. Parker ("**Mr. Parker**"), Gregory M. Parker, Inc., d/b/a Parker's Corporation ("**Parker's Corporation**"), Blake Greco, and Jason D'Cruz (collectively, "**Parker's Defendants**"), pursuant to Rule 45 of the South Carolina Rules of Civil Procedure, respectfully request the Court compel production of documents requested pursuant to valid subpoenas ("**Subpoenas**") issued to Mark Tinsley ("**Mr. Tinsley**") and Tabor Vaux ("**Mr. Vaux**") (collectively, "**Plaintiffs' counsel**"). For the reasons set forth herein, the Parker's Defendants' Motion should be granted.

**I. BACKGROUND**

In the early morning hours of February 24, 2019, the boat crash that led to the death of Mallory Beach occurred, which has since resulted in litigation involving Parker's Corporation and the Murdaugh family. *See Renee S. Beach, as Personal Representative of the Estate of Mallory*

*Beach v. Gregory M. Parker, Inc., et al.*, Case Number 2019-CP-25-00111 (“**Related Civil Action**”).

The instant action—related to allegations of the disclosure of mediation material used in the Related Civil Action—was filed on December 3, 2021. Plaintiffs’ counsel initiated discovery in early 2022, resulting in a discovery dispute involving subpoenas issued by Plaintiffs’ counsel and the Parker’s Defendants filing a Petition for Writ of Mandamus on May 23, 2022. As discussed in multiple pleadings, the Parker’s Defendants learned of multiple grounds justifying disqualification of Plaintiffs’ counsel, some of which may be further supported by discovery of additional evidence. Following Mr. Tinsley’s testimony in *The State of South Carolina v. Richard Alexander Murdaugh*, Indictment Numbers 2022-GS-15-00592 – 00595, on February 6th, 9th, and 10th, the Parker’s Defendants issued subpoenas to Mark Tinsley and Tabor Vaux on February 15, 2023. These Subpoenas were reasonably calculated to lead to the discovery of admissible evidence related to the issue of Mr. Tinsley’s potential disqualification as detailed herein. (Subpoenas attached as Exhibit A.) On February 28, 2023, Plaintiffs’ counsel submitted written objections. (Objections attached as Exhibit B.) In response, on March 3, 2023, counsel for the Parker’s Defendants e-mailed Plaintiffs’ counsel explaining why the objections are without merit, and requested a response as to whether a meet-and-confer would be helpful by March 6, 2023. (E-Mail attached as Exhibit C.) As of the date of this filing, Plaintiffs’ counsel have failed to respond to the March 6, 2023 email attached as Exhibit C.

Importantly, the Subpoenas issued by the Parker’s Defendants are different in nature from the ones issued by Plaintiffs’ counsel. The latter seek voluminous, irrelevant documents containing attorney-client communications and attorney work product based upon privileged third-party contracts, without a request for a privilege log. In contrast, the Subpoenas at issue here seek

material that was not created pursuant to privileged third-party contracts, and, on their face, seek information that is almost certainly not privileged. Further, to the extent any material responsive to the Subpoenas is deemed privileged by Plaintiffs' counsel, the Subpoenas are specifically tailored by requesting a privilege log in lieu of immediate disclosure, such that the parties may resolve issues without judicial intervention. The Parker's Defendants have been consistent in both scenarios, because they have always maintained a willingness to provide a privilege log in response to the subpoenas issued by Plaintiffs' counsel and have requested that Plaintiffs' counsel also comply with the rules of this Court. But as an example of inconsistent positions, Plaintiffs' counsel expected disclosure without a privilege log in response to their subpoenas and failed to address why they should not produce one for these Subpoenas.

## II. LEGAL STANDARD

“In South Carolina the scope of discovery is very broad and ‘an objection on relevance grounds is likely to limit only the most excessive discovery request.’” *Samples v. Mitchell*, 329 S.C. 105, 110, 495 S.E.2d 213, 215 (Ct. App. 1997) (quoting J. Flanagan, South Carolina Civil Procedure 216 (2d ed.1996)); *see also Oncology & Hematology Assocs. of S.C., LLC v. S.C. Dep’t of Health & Env’t Control*, 387 S.C. 380, 387, 692 S.E.2d 920, 924 (2010) (“We are keenly aware that the scope of discovery is broad.”).

Rule 26 governs the scope of discovery:

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Rule 26(b)(1), SCRCPP (emphasis added); *In re Mt. Hawley Ins. Co.*, 427 S.C. 159, 166–67, 829 S.E.2d 707, 712 (2019) (“The scope of discovery in South Carolina is generally broad. . . . As a result, parties may obtain discovery regarding any matter that is not privileged so long as it is relevant to the subject matter involved in the pending claim.”).

Further, it is clear Rule 45 of the South Carolina Rules of Civil Procedure allows for subpoenas commanding the production of documents by a non-party. *See* Rule 45(a)(2), SCRCPP (“[A] subpoena to a person who is not a party or an officer, director or managing agent of a party, commanding attendance at a deposition or production or inspection shall issue from the court for the county in which the non-party resides or is employed or regularly transacts business in person.”).

### III. ARGUMENT

#### A. **The Subpoenas Are Reasonably Calculated to Lead to the Discovery of Admissible Evidence Related to the Potential Disqualification of Counsel, and Production of Responsive Materials Should Therefore Be Compelled.**

The Court should compel production of the subpoenaed material, because the requests are specifically related to the claims in this case and the grounds justifying disqualification of Mr. Tinsley. The Parker’s Defendants previously learned Mr. Tinsley has (1) communicated with Vicky Ward in such a manner to have turned himself into a witness;<sup>1</sup> (2) communicated with a represented party, Sara Capelli; and (3) pursued, received, and reviewed privileged material belonging to the Parker’s Defendants. All three of these grounds for disqualification have

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<sup>1</sup> In Paragraph 14 the Answer filed by Vicky Ward on June 7, 2022, she describes conversations that she has had with Mark Tinsley related to the mediation video at issue. In Paragraphs 33, 38, and 40 of the Answer, Ms. Ward alleges that Mark Tinsley gave her consent to use the mediation video in her documentary. She raises these allegations in her affirmative defenses of Consent, Waiver and Estoppel.

previously been asserted via a motion filed by the Parker's Defendants.

However, Mr. Tinsley recently revealed a potential additional ground for disqualification via his testimony in the double homicide trial of Richard Alexander "Alex" Murdaugh ("Mr. Murdaugh"). During Mr. Tinsley's sworn testimony outside the presence of the jury on February 6, 2023, he testified about a confrontation he had with Mr. Murdaugh at a trial lawyers' conference in Hilton Head on August 2019 regarding the Related Civil Action:

As you come into the hotel, there's a - - there's a gathering area. It's in the evening before. Everyone goes to dinner or it's immediately after, I'm not 100% certain. But the room is full of lawyers and Alex sees me and he comes across and he gets up close in my face and says, "Hey bo, what's this I'm hearing about what you're saying? I thought we were friends." And I replied, "Alex, we are friends. If you don't think I can burn your house down and that I'm - - that - - that I'm not doing everything and I'm not going to do everything, you're wrong. You need to settle this case."<sup>2</sup>

*Mallory Beach lawyer Alex [sic] Tinsley says he was confronted by Alex Murdaugh: full video*, YouTube (Feb. 6, 2023), <https://www.youtube.com/watch?v=S67CkmZqyuY>. Shortly thereafter in his February 6th testimony, Mr. Tinsley testified about issues in the spring of 2021 regarding the potential for jury fixing in the Related Civil Action as well as communications he had disclosed to law enforcement on the same topic:

A: [S]o this conversation [i.e. Mr. Tinsley's text messages disclosed to law enforcement] is for the first time I've said that I'm going to leave the case [i.e. the Related Civil Action] in Hampton. But if I - - if I think that Alex has ***fixed the jury***, that he's done anything to affect the - - the outcome of the trial, then I'm going to sue Paul and Maggie [Murdaugh] the next day in Beaufort.

Q: And was that communicated to the defense [i.e. to Mr. Murdaugh's criminal defense attorneys]?

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<sup>2</sup> This testimony can be heard at the 11:36 minute-second mark through the 12:18 minute-second mark.

A: Absolutely.<sup>3</sup>

*Id.* (emphasis added). Ultimately, Mr. Tinsley did sue Paul and Maggie Murdaugh on February 23, 2022. See Third Amended Complaint, *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M. Parker, Inc., et al.*, Case Number 2019-CP-25-00111. Further, during Mr. Tinsley's sworn testimony in the presence of the jury on February 9, 2023, he also stated: "I'm being told by Alex [and] Alex's lawyer that a Hampton jury won't return a verdict against him."<sup>4</sup> *Live: Alex Murdaugh murder trial livestream - February 9 - WARNING: Graphic*, YouTube (Feb. 9, 2023), <https://www.youtube.com/watch?v=CGcO6OJbUjw>. The Parker's Defendants have no information and do not believe that any concerns Mr. Tinsley claims to have had about potential "jury fixing" in the Related Civil Action were communicated to the presiding judge in that case prior to Mr. Tinsley's testimony referenced above—and any such concerns were certainly not disclosed to counsel for Parker's Corporation, a co-defendant of Mr. Murdaugh's in the Related Civil Action.

Additionally, during the double homicide trial of Mr. Murdaugh, it was also revealed that Mr. Tinsley paid one thousand dollars (\$1,000.00) to a witness who testified against Mr. Murdaugh via a GoFundMe fundraiser.<sup>5</sup> The fundraiser—and by implication, Mr. Tinsley's donation—was for the express purpose of compensating the witness for her bravery in testifying against Mr. Murdaugh. *Lawyer who testified against Alex Murdaugh is accused of paying another witness \$1,000 as a 'reward for her honesty' in the middle of double murder trial after she poked holes in legal scion's alibi*, Daily Mail (Feb. 9, 2023), <https://www.dailymail.co.uk/news/article->

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<sup>3</sup> This testimony can be heard at the 31:38 minute-second mark through the 32:07 minute-second mark.

<sup>4</sup> This testimony can be heard at the 8:36:20 hour-minute-second mark through the 8:36:27 hour-minute-second mark.

<sup>5</sup> Rule 3.4 of the South Carolina Rules of Professional Conduct sets forth a prohibition on offering an inducement to a witness for testimony.

[11732545/Daughter-carer-testified-saw-Murdaugh-night-double-murders-sets-GoFundMe-page.html](https://www.gofundme.com/11732545/Daughter-carer-testified-saw-Murdaugh-night-double-murders-sets-GoFundMe-page.html).

Because Mr. Tinsley is counsel for both sets of plaintiffs in the Related Civil Action and in the instant action, and because he is suing the Parker's Corporation in both as well, Mr. Tinsley's conduct in the Related Civil Action is equally relevant to the instant case. The conversation, as testified to by Mr. Tinsley, between him and Mr. Murdaugh is at best highly unusual, because the vast majority of lawyers who practice law in this state would never even think about having such a discussion and it arguably demonstrates Mr. Tinsley's understanding and/or belief that juries in Hampton County (where both this case and the Related Civil Action are currently sited) may be "fixable." If Mr. Tinsley and/or his co-counsel, Mr. Vaux, have any communications related to jury fixing in the Fourteenth Judicial Circuit by anyone or have disclosed communications to law enforcement regarding jury fixing, such communications are relevant in this case. Likewise, if Mr. Tinsley is worried about jury fixing, it is within the bounds of discovery to determine if he believes jury fixing occurs because he himself has direct knowledge of the same. Therefore, such evidence (if it exists) is relevant.

Each of the requests in the Subpoenas is carefully crafted to elicit evidence related to these issues. Request Number 1 generally requests documentation relating to any documents disclosed to law enforcement. Request Numbers 2 through 12 generally request documentation and communications regarding jury fixing. Finally, Request Number 13 generally requests any evidence of jury fixing by Plaintiffs' counsel. Thus, each of these requests are directly tied to Mr. Tinsley's sworn testimony that was directly tied to the Related Civil Action. The scope of discovery is broad in South Carolina, *see In re Mt. Hawley*, 427 S.C. at 166–67, 829 S.E.2d at 712, and Mr. Tinsley has clearly opened the door to this discovery via his relevant and sworn testimony.

**B. The Boilerplate, Generalized Objections by Plaintiffs' Counsel Are Insufficient and Without Merit.**

In response, Plaintiffs' counsel submitted boilerplate, generalized objections. (Ex. B, Objections). Courts have instructed that parties “shall **not** make nonspecific, boilerplate objections.” *See, e.g., Curtis v. Time Warner Ent.-Advance/Newhouse P'ship*, No. 3:12-CV-2370-JFA, 2013 WL 2099496, at \*2 (D.S.C. May 14, 2013) (emphasis added); *see also* The Honorable Roger Young, *Memorandum RE Preparation for discovery motions* (Aug. 29, 2019) (attached as Exhibit D); Scott Moise, *Interrogatories: Part II*, S.C. Law., at 46 (Mar. 2006) (advising to “avoid boilerplate objections for each response”). Objections that merely state that the discovery request is “‘vague, overly broad, or unduly burdensome’ are, standing alone, meaningless . . . .”<sup>6</sup> *Curtis*, 2013 WL 2099496, at \*2. Instead, parties “must explain the specific and particular way in which a given request is vague, overly broad, or unduly burdensome.” *Id.* Because Plaintiffs' counsel have provided no explanation for the generalized objections, this Court should reject these

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<sup>6</sup> Courts outside of South Carolina have echoed this principle as well. *See, e.g., Steed v. EverHome Mortg. Co.*, 308 Fed. Appx. 364, 371 (11th Cir. 2009) (“[B]oilerplate objections may border on a frivolous response to discovery requests.”); *McLeod, Alexander, Powel & Appfel, P.C. v. Quarles*, 894 F.2d 1482, 1485 (5th Cir. 1990) (“[T]o say an interrogatory was overly broad, burdensome, oppressive and irrelevant [is] not adequate to voice a successful objection to an interrogatory.” (internal quotation marks omitted)); *Josephs v. Harris Corp.*, 677 F.2d 985, 992 (3d Cir. 1982) (“[T]he mere statement by a party that the interrogatory was ‘overly broad, burdensome, oppressive and irrelevant’ is not adequate to voice a successful objection to an interrogatory.”); *Adelman v. Boy Scouts of Am.*, 276 F.R.D. 681, 688 (S.D. Fla. 2011) (“[B]oilerplate objections [are] legally inadequate or ‘meaningless.’”); *Nissan N Am., Inc. v. Johnson Elec. N Am., Inc.*, 2011 WL 669352, at \*2 (E.D. Mich. Feb. 17, 2011) (“Boilerplate or generalized objections are tantamount to no objection at all . . . .”); *Hager v. Graham*, 267 F.R.D. 486, 498 (N.D. W. Va. 2010) (“The objection is only a general statement that does not specify how the [request for production] is vague, ambiguous, and overly broad. Therefore, the objection is improper.”); *Enron Corp. Sav. Plan v. Hewitt Assocs., L.L.C.*, 258 F.R.D. 149, 159 (S.D. Tex. 2009) (“Boilerplate objections are not acceptable; specific objections are required . . . .” (internal quotation marks omitted)); *A. Farber & P's, Inc. v. Garber*, 234 F.R.D. 186, 188 (C.D. Cal. 2006) (“[G]eneral or boilerplate objections such as ‘overly burdensome and harassing’ are improper—especially when a party fails to submit any evidentiary declarations supporting such objections.”); *Walker v. Lakewood Condo. Owners Ass'n*, 186 F.R.D. 584, 587 (C.D. Cal. 1999) (“Boilerplate, generalized objections are inadequate and tantamount to not making any objection at all.”).



objections as meaningless and without merit. Even after being provided with a second opportunity to respond with either the production of documents or more specific objections, Plaintiffs' counsel failed to respond by the requested deadline. (Ex. C, E-mail).

**(1) The Objection Based on Undue Burden and Scope Should Be Rejected by This Court.**

As one main example of the generalized objections, Plaintiffs' counsel stated all of the requests "impose an undue burden," and are "beyond the scope of production required of a non-party." (Ex. B, Objections, p. 3). Plaintiffs' counsel failed to address how these requests impose an undue burden. Therefore, their objection on this ground is boilerplate and conclusory, which is insufficient. Regarding scope, Rule 45 clearly allows for subpoenas commanding the production of documents by non-parties. *See* Rule 45(a)(2), SCRCP ("[A] subpoena to a person who is not a party or an officer, director or managing agent of a party, commanding attendance at a deposition or production or inspection shall issue from the court for the county in which the non-party resides or is employed or regularly transacts business in person."). Further, Rule 45 does not distinguish between parties and non-parties when it comes to the undue burden analysis, and instead refers to any subpoenaed entity as a "person." For example, Rule 45 states (1) "[a] party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a *person* subject to that subpoena," Rule 45(c)(1), SCRCP (emphasis added), and (2) "[o]n motion to compel discovery or to quash, the *person* from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost," Rule 45(d)(1)(D), SCRCP (emphasis added). Therefore, Plaintiffs' counsel's attempt to avoid production by distinguishing parties and non-parties is not founded within Rule 45 itself.

Even assuming *arguendo* there is a different standard for parties and non-parties, the interests of Plaintiffs' counsel, the Plaintiffs in the instant action, and the Plaintiff in the Related Civil Action are so closely aligned and intertwined that the former should be treated as parties. Further, Plaintiffs' counsel are likely engaged by the Plaintiffs on a contingency basis.

Ultimately, the objection based on undue burden and scope is unsupported. Regardless of the standard of discovery between parties and non-parties, the subpoenaed entities here should clearly be considered as standing in the shoes of a party in this case, because they are operating on Plaintiffs' behalf. Without a more specific showing of undue burden by Plaintiffs' counsel, this Court should compel production of the subpoenaed documents.

**(2) The Objection Based on Privilege Ignores the Plain Language of the Subpoenas and the Requirement to Produce a Privilege Log, and Also Highlights the Inconsistent Positions of Plaintiffs' Counsel.**

As a second example of a boilerplate objection, Plaintiffs' counsel contends that "many, if not all [of the communications], *are* subject to privilege." (Ex. B, Objections, p. 3 (emphasis added)). However, this generalized objection also fails, because the Subpoenas themselves make clear in the second paragraph of each Attachment A that a privilege log is requested in lieu of immediate disclosure, such that the parties may litigate the issues of privilege if necessary. The pertinent language from the Subpoenas reads as follows:

If you contend that any of these requests call for production of documents that are protected by the attorney-client privilege, by the work-product rule, or by any other claim of privilege, identify each document you contend is so protected by stating the type of document (e.g., handwritten notes, letters, etc.), its author(s), all recipient(s), when it was created, its general subject matter, the nature of the privilege or other reason which justifies non-production and all facts upon which the claims of privilege or other claim justification of non-production is based.

(Ex. A, Subpoenas). Thus, regarding the privilege concerns, this Court should require Plaintiffs' counsel to generate a privilege log so that the parties can attempt to resolve any issues of privileged material without the necessity of further Court intervention.

Lastly, Plaintiffs' counsel's objection based on privilege should be considered without merit, because of the inconsistent positions Plaintiffs' counsel have taken between these Subpoenas and the ones issued to third parties in this case. The Parker's Defendants have been consistent in both scenarios, because they have always maintained a willingness to provide a privilege log in response to the subpoenas issued by Plaintiffs' counsel and have requested the same courtesy from Plaintiffs' counsel. In contrast, Plaintiffs' counsel expected disclosure without a privilege log in response to their subpoenas, but failed to address why they should not produce one for these Subpoenas. Furthermore, the Parker's Defendants have also always provided substantive objections and arguments as to why its materials should be deemed privileged (e.g. they are based on contracts signed by counsel for Mr. Parker for the purposes of litigation). Again, in contrast, Plaintiffs' counsel failed to provide any rationale for how his communications or documents related to communications to third parties are privileged. Because of the stark difference between Plaintiffs' counsel's positions, this Court should view the objections for what they are: baseless.

#### **IV. CONCLUSION**

Based on the foregoing, the Parker's Defendants respectfully request that the Court enter an order compelling production of documents pursuant to the valid Subpoenas, and/or to require the production of a privilege log to the extent one is necessary

Respectfully submitted,

s/ Mark C. Moore

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CORPORATION, JASON D'CRUZ AND  
BLAKE GRECO

March 31, 2023  
Columbia, South Carolina

Renee S. Beach, et al. v. Gregory M. Parker, Inc. d/b/a Parker's Corporation, et al.  
Case No. 2021-CP-25-00392

MOTION TO COMPEL PRODUCTION OF SUBPOENAED MATERIAL ON BEHALF OF GREGORY M  
PARKER, INC. d/b/a PARKER'S CORPORATION, BLAKE GRECO AND JASON D'CRUZ

# EXHIBIT A

## SUBPOENAS

# STATE OF SOUTH CAROLINA

ISSUED BY THE CIRCUIT COURT IN THE COUNTY OF ALLENDALE

RENEE S. BEACH, PHILLIP BEACH, ROBIN  
BEACH, SAVANNAH TUTEN, and SETH TUTEN,  
Plaintiff

v.

SUBPOENA *DUCES TECUM* IN A CIVIL CASE

GREGORY M. PARKER, GREGORY M. PARKER,  
INC. d/b/a PARKER'S CORPORATION, BLAKE  
GRECO, JASON D'CRUZ, VICKY WARD, MAX  
FRATODDI, HENRY ROSADO and PRIVATE  
INVESTIGATIONS SERVICES GROUP, LLC,  
Defendant

Case Number: 2021-CP-25-00392

Pending in Hampton County

TO: Mark B. Tinsley, 265 Barnwell Hwy., P.O. Box 1000, Allendale, South Carolina 29810

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME , AM
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☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects):

REFER TO ATTACHMENT A

PLACE Richardson, Thomas, Haltiwanger, Moore & Lewis 1730 Jackson Street, Barnwell, SC 29812	DATE AND TIME: February 28, 2023 at 10:00 AM
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☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME , AM
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ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.



2/15/2023

Mark C. Moore

Attorney/Issuing Officer's Signature

Date

Print Name

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number :

Address: Nexsen Pruet LLC, 1230 Main Street, Suite 700, Columbia, SC 29201

Phone Number: (803) 540-2146

Clerk of Court/Issuing Officer's Signature

Date

Print Name

Pro Se Litigant's Name, Address and Telephone Number :

**PROOF OF SERVICE**

SERVED	DATE	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL <input type="checkbox"/> YES <input type="checkbox"/> NO   AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

**DECLARATION OF SERVER**

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF SERVER

\_\_\_\_\_  
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

**(c) Protection of Persons Subject to Subpoenas.**

**(1)** A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

**(2)(A)** A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

**(B)** Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

**(3)(A)** On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

**(i)** fails to allow reasonable time for compliance; or

**(ii)** requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

**(iii)** requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B)** If a subpoena:

**(i)** requires disclosure of a trade secret or other confidential research, development, or commercial information, or

**(ii)** requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or



(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) Duties in Responding to Subpoena.**

**(1)(A)** A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

**(B)** If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C)** A person responding to a subpoena need not produce the same electronically stored information in more than one form.

**(D)** A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

**(2)(A)** When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**(B)** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

## **ATTACHMENT A**

### **GENERAL INSTRUCTIONS AND DEFINITIONS**

You are hereby instructed to produce documents responsive to the requests below. These requests are deemed to be continuing so as to require supplemental responses and the production of additional documents in the event that you locate or discover documents responsive to one or more of these requests, which documents have not previously been produced.

If you contend that any of these requests call for production of documents that are protected by the attorney-client privilege, by the work-product rule, or by any other claim of privilege, identify each document you contend is so protected by stating the type of document (e.g., handwritten notes, letters, etc.), its author(s), all recipient(s), when it was created, its general subject matter, the nature of the privilege or other reason which justifies non-production and all facts upon which the claims of privilege or other claimed justification of non-production is based.

The term “you,” “your,” or “yours” means the person or entity named in this Subpoena, as well as its agents, representatives, attorneys, consultants, experts, investigators, and all other persons acting on your behalf.

The terms “communication(s)” and “document(s)” as used herein include things and electronic data and have a broad meaning, encompassing any medium upon which any intelligence or information is recorded and includes, but is not limited to, the original and any non-identical copy, regardless of origin or location, of any writing or record of any type or description, including, but not limited to, the original and any non-identical copy of any of the following: e-mail, letter, electronic messages (including but not limited to text messages, SMS messages, social media messages, and messages via messaging applications and platforms such as Facebook, Facebook Messenger, Instagram, and WhatsApp), draft, log, book, manual, book of procedure, pamphlet, periodical, letter, memorandum, telegram, telecopy or telecopier facsimile (fax), report, record, study, handwritten or other note, working paper, business diary, Rolodex (or similar record of telephone numbers and/or addresses), calendar, engagement book, chart, paper, graph, index, tape, disc, data sheet or data processing card, correspondence, table, analysis, schedule, diary, message (including but not limited to, reports of telephone conversations or conferences), magazine, booklet, circular, bulletin, instruction, minutes, other communication (including inter-office or intra-office communications), purchase order, bill of lading, bid tabulation, questionnaire, survey, contract, agreement, option to purchase, memorandum of agreement, assignment, license, book of account, order, invoice, statement, bill (including, but not limited to, telephone bills), check, voucher, notebook, film, photograph, photographic negative, phonorecord, microfilm tape recording, brochure, any other data compilations from which information can be obtained and translated, if necessary, through electronic devices into reasonably usable form, or any other written, recorded, transcribed, punched, taped, filed, or graphic matter, however produced or reproduced. All electronic documents shall be produced in native format.

The term “value” is defined as any pecuniary item, including money, bank bill, note; a promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money; a contract, agreement, promise, or other obligation for an advance conveyance, forgiveness of

indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money; sponsorship; legal advice; a receipt given for the payment of money or other property; a right in action; a gift, tangible good, chattel, or an interest in a gift, tangible good, including food, or chattel; a loan or forgiveness of indebtedness; a work of art, antique, or collectible; real property or an interest in real property, including title to realty; a fee simple or partial interest, present or future, contingent or vested, within realty; a leasehold interest; or other beneficial interest in realty; or any other thing of value that is pecuniary or compensatory in value to a person, or the primary significance of which is economic gain.

### **SUBPOENA REQUESTS**

1. Produce any and all documents you produced to any state or federal law enforcement agency, prosecutorial body, and judicial body, including but not limited to the South Carolina Law Enforcement Division and the South Carolina State Grand Jury, that investigated, prosecuted, or heard the criminal allegations against Richard Alexander “Alex” Murdaugh.
2. Produce and any all documents and communications related to potential jury tampering or potential jury “fixing” in the Fourteenth Judicial Circuit of the State of South Carolina for the time period from February 1, 2019, until the present.
3. Produce and any all documents and communications related to potential jury tampering or potential jury “fixing” in the case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M. Parker, Inc., et al.*, Case Number 2019-CP-25-00111 or *Renee S. Beach et al. v. Gregory M. Parker et al.*, Case Number 2021-CP-25-00392, from February 1, 2019, until the present.
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8. Produce and any all documents and communications concerning your knowledge of actual jury tampering or actual jury “fixing” in the Fourteenth Judicial Circuit of the State of South Carolina for the time period from February 1, 2019, until the present.
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10. Produce any and all communications related to or arising from that certain boating accident of February 23, 2019, and any actions arising therefrom, including but not limited to the case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M. Parker, Inc., et al.*, Case Number 2019-CP-25-00111 or *Renee S. Beach et al. v. Gregory M. Parker et al.*, Case Number 2021-CP-25-00392, from February 1, 2019, until the present, between you and the following people:
  - a. Richard Alexander “Alex” Murdaugh;
  - b. John Tiller;
  - c. Danny Henderson;
  - d. Ronnie Crosby;
  - e. Woodie Gooding;
  - f. Any agent, representative, attorney, consultant, expert, investigator, and all other persons acting on behalf of Peters Murdaugh Parker Eltzroth & Detrick, PA;
  - g. Any agent, representative, attorney, consultant, expert, investigator, and all other persons acting on behalf of Parker Law Group, LLP; and
  - h. Tabor Vaux.
11. Produce any and all communications with Richard Alexander “Alex” Murdaugh, or any agent, representative, attorney, consultant, expert, investigator, and all other persons acting on behalf of Richard Alexander “Alex” Murdaugh, related to or regarding the identification of the actual or potential parties in the case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M. Parker, Inc., et al.*, Case Number 2019-CP-25-00111.
12. Produce any and all communications with Peters Murdaugh Parker Eltzroth & Detrick, PA, or any agent, representative, attorney, consultant, expert, investigator, and all other persons acting on behalf of Peters Murdaugh Parker Eltzroth & Detrick, PA, related to or regarding the identification of the actual or potential parties in the case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M. Parker, Inc., et al.*, Case Number 2019-CP-25-00111.
13. Produce any and all documents evidencing anything of value provided by you in the last five (5) years to any actual party, witness, potential witness, actual juror, or identified as a potential juror in the Fourteenth Judicial Circuit of the State of South Carolina, including but not limited to any actual party, witness, potential witness, actual juror, or identified as a potential juror:

- a. in the civil case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M. Parker, Inc., et al.*, Case Number 2019-CP-25-00111;
- b. in the civil case of *Renee S. Beach et al. v. Gregory M. Parker et al.*, Case Number 2021-CP-25-00392; and
- c. in the double-homicide criminal case against Richard Alexander “Alex” Murdaugh, i.e. *The State of South Carolina v. Richard Alexander “Alex” Murdaugh*, Indictment Numbers 2022-GS-15-00592 – 00595;

to include your donation made to Mushelle “Shelley” Smith via GoFundMe.

**AFFIDAVIT OF SERVICE**

State of South Carolina

County of Hampton

Common Pleas Court

Case Number: 2021-CP-25-00392 Court Date: 2/28/2023 10:00 am

Plaintiff:

RENEE S. BEACH, PHILLIP BEACH, ROBIN BEACH, SAVANNAH TUTEN, AND SETH TUTEN

vs.

Defendant:

GREGORY M. PARKER, ET AL.,

For:

MARK C. MOORE  
NEXSEN PRUET LLC  
1230 MAIN STREET, SUITE 700  
COLUMBIA, SC 29201

Received by PROCESS SERVICE, INC. to be served on MARK B. TINSLEY, 265 BARNWELL HWY., GOODING &amp; GOODING PA, ALLENDALE, SC 29810.

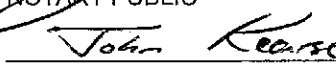
I, John R. Gamble, being duly sworn, depose and say that on the 15th day of February, 2023 at 3:39 pm, I:

Served the within named with a true copy of the SUBPOENA DUCES TECUM, ATTACHMENT A, with date and hour endorsed hereon by me, leaving the documents with RONDA LAWSON, PARALEGAL at the above listed address.

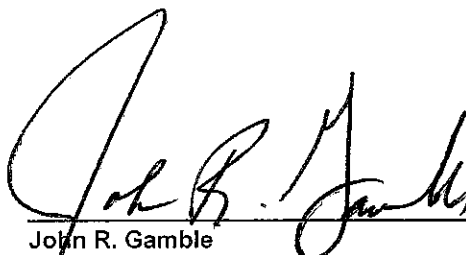
**Description** of Person Served: Age: 60, Sex: F, Race/Skin Color: WHITE, Height: 5'6", Weight: 180, Hair: GREY, Glasses: Y

I am over eighteen and have no interest in the above action.

Subscribed and Sworn to before me on the 17th day of February, 2023 by the affiant who is personally known to me.

  
NOTARY PUBLIC  
PRINTED SIGNATURE

Commission Expires:

June 3, 2031  
John R. Gamble  
PROCESS SERVERPROCESS SERVICE, INC.  
P.O. Box 20097  
Charleston, SC 29413  
(843) 577-2355

Our Job Serial Number: LEX-2023000345

# STATE OF SOUTH CAROLINA

ISSUED BY THE CIRCUIT COURT IN THE COUNTY OF BEAUFORT

RENEE S. BEACH, PHILLIP BEACH, ROBIN  
BEACH, SAVANNAH TUTEN, and SETH TUTEN,  
Plaintiff

v.

SUBPOENA *DUCES TECUM* IN A CIVIL CASE

Case Number: 2021-CP-25-00392

GREGORY M. PARKER, GREGORY M. PARKER,  
INC. d/b/a PARKER'S CORPORATION, BLAKE  
GRECO, JASON D'CRUZ, VICKY WARD, MAX  
FRATODDI, HENRY ROSADO and PRIVATE  
INVESTIGATIONS SERVICES GROUP, LLC,  
Defendant

Pending in Hampton County

TO: Tabor Vaux, Vaux Marscher Berglind PA, 1251 May River Rd, Bluffton, SC 29910

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME , AM
---------------------	--------------------

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects):

REFER TO ATTACHMENT A

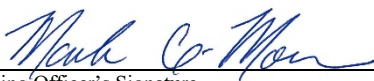
PLACE Tupper Grimsley Dean & Canaday PA, 611 Bay St, Beaufort, SC 29902	DATE AND TIME: February 28, 2023 at 10:00 AM
---	--

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME , AM
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ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.



2/15/2023

Mark C. Moore

Attorney/Issuing Officer's Signature

Date

Print Name

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number :

Address: Nexsen Pruet LLC, 1230 Main Street, Suite 700, Columbia, SC 29201 Phone Number: (803) 540-2146

---

Clerk of Court/Issuing Officer's Signature

Date

Print Name

Pro Se Litigant's Name, Address and Telephone Number :

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**PROOF OF SERVICE**

SERVED	DATE	FEES AND MILEAGE TO BE TENDERED TO WITNESS UPON DAILY ARRIVAL <input type="checkbox"/> YES <input type="checkbox"/> NO   AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

**DECLARATION OF SERVER**

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF SERVER

\_\_\_\_\_  
ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

**(c) Protection of Persons Subject to Subpoenas.**

**(1)** A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

**(2)(A)** A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

**(B)** Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

**(3)(A)** On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

**(i)** fails to allow reasonable time for compliance; or

**(ii)** requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

**(iii)** requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B)** If a subpoena:

**(i)** requires disclosure of a trade secret or other confidential research, development, or commercial information, or

**(ii)** requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) Duties in Responding to Subpoena.**

**(1)(A)** A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

**(B)** If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C)** A person responding to a subpoena need not produce the same electronically stored information in more than one form.

**(D)** A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

**(2)(A)** When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**(B)** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

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The term “you,” “your,” or “yours” means the person or entity named in this Subpoena, as well as its agents, representatives, attorneys, consultants, experts, investigators, and all other persons acting on your behalf.

The terms “communication(s)” and “document(s)” as used herein include things and electronic data and have a broad meaning, encompassing any medium upon which any intelligence or information is recorded and includes, but is not limited to, the original and any non-identical copy, regardless of origin or location, of any writing or record of any type or description, including, but not limited to, the original and any non-identical copy of any of the following: e-mail, letter, electronic messages (including but not limited to text messages, SMS messages, social media messages, and messages via messaging applications and platforms such as Facebook, Facebook Messenger, Instagram, and WhatsApp), draft, log, book, manual, book of procedure, pamphlet, periodical, letter, memorandum, telegram, telecopy or telecopier facsimile (fax), report, record, study, handwritten or other note, working paper, business diary, Rolodex (or similar record of telephone numbers and/or addresses), calendar, engagement book, chart, paper, graph, index, tape, disc, data sheet or data processing card, correspondence, table, analysis, schedule, diary, message (including but not limited to, reports of telephone conversations or conferences), magazine, booklet, circular, bulletin, instruction, minutes, other communication (including inter-office or intra-office communications), purchase order, bill of lading, bid tabulation, questionnaire, survey, contract, agreement, option to purchase, memorandum of agreement, assignment, license, book of account, order, invoice, statement, bill (including, but not limited to, telephone bills), check, voucher, notebook, film, photograph, photographic negative, phonorecord, microfilm tape recording, brochure, any other data compilations from which information can be obtained and translated, if necessary, through electronic devices into reasonably usable form, or any other written, recorded, transcribed, punched, taped, filed, or graphic matter, however produced or reproduced. All electronic documents shall be produced in native format.

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### **SUBPOENA REQUESTS**

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  - a. Richard Alexander “Alex” Murdaugh;
  - b. John Tiller;
  - c. Danny Henderson;
  - d. Ronnie Crosby;
  - e. Woodie Gooding;
  - f. Any agent, representative, attorney, consultant, expert, investigator, and all other persons acting on behalf of Peters Murdaugh Parker Eltzroth & Detrick, PA;
  - g. Any agent, representative, attorney, consultant, expert, investigator, and all other persons acting on behalf of Parker Law Group, LLP; and
  - h. Mark Tinsley.
11. Produce any and all communications with Richard Alexander “Alex” Murdaugh, or any agent, representative, attorney, consultant, expert, investigator, and all other persons acting on behalf of Richard Alexander “Alex” Murdaugh, related to or regarding the identification of the actual or potential parties in the case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M. Parker, Inc., et al.*, Case Number 2019-CP-25-00111.
12. Produce any and all communications with Peters Murdaugh Parker Eltzroth & Detrick, PA, or any agent, representative, attorney, consultant, expert, investigator, and all other persons acting on behalf of Peters Murdaugh Parker Eltzroth & Detrick, PA, related to or regarding the identification of the actual or potential parties in the case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M. Parker, Inc., et al.*, Case Number 2019-CP-25-00111.
13. Produce any and all documents evidencing anything of value provided by you in the last five (5) years to any actual party, actual witness, potential witness, actual juror, or identified as a potential juror in the Fourteenth Judicial Circuit of the State of South Carolina, including but not limited to any actual party, actual witness, potential witness, actual juror, or identified as a potential juror in the cases of:

- a. in the civil case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M. Parker, Inc., et al.*, Case Number 2019-CP-25-00111;
- b. in the civil case of *Renee S. Beach et al. v. Gregory M. Parker et al.*, Case Number 2021-CP-25-00392; and
- c. in the double-homicide criminal case against Richard Alexander “Alex” Murdaugh, i.e. *The State of South Carolina v. Richard Alexander “Alex” Murdaugh*, Indictment Numbers 2022-GS-15-00592 – 00595.

**AFFIDAVIT OF SERVICE**

State of South Carolina

County of Hampton

Common Pleas Court

Case Number: 2021-CP-25-00392 Court Date: 2/28/2023 10:00 am

Plaintiff:

RENEE S. BEACH, PHILLIP BEACH, ROBIN BEACH, SAVANNAH TUTEN, AND SETH TUTEN

vs.

Defendant:

GREGORY M. PARKER, ET AL.,

For:

MARK C. MOORE  
NEXSEN PRUET LLC  
1230 MAIN STREET, SUITE 700  
COLUMBIA, SC 29201

Received by PROCESS SERVICE, INC. to be served on TABOR VAUX, VAUX MARSCHER BERGLIND PA, 1251 MAY RIVER RD., BLUFFTON, SC 29910.

I, STEVE HARRIS, being duly sworn, depose and say that on the 16th day of February, 2023 at 2:50 pm, I:

served an AUTHORIZED entity by delivering a true copy of the SUBPOENA DUCES TECUM, ATTACHMENT A with the date and hour of service endorsed hereon by me, to: JENNIFER ACREE as LAW FIRM ADMIN. at the address of: VAUX MARSCHER BERGLIND PA, 1251 MAY RIVER RD., BLUFFTON, SC 29910, who stated they are authorized to accept service for TABOR VAUX, and informed said person of the contents therein, in compliance with state statutes.

**Military Status:** Based upon inquiry of party served, defendant is not in the military service of The United States of America.**Description of Person Served:** Age: 52, Sex: F, Race/Skin Color: White, Height: 5'5", Weight: 150, Hair: Dark Blonde, Glasses: N

I am over eighteen and have no interest in the above action.

Subscribed and Sworn to before me on the 17th day of February, 2023 by the affiant who is personally known to me.

NOTARY PUBLIC

PRINTED SIGNATURE

STEVE HARRIS  
Process ServerPROCESS SERVICE, INC.  
P.O. Box 20097  
Charleston, SC 29413  
(843) 577-2355

Our Job Serial Number: LEX-2023000346

Commission Expires:

June 3, 2031

Renee S. Beach, et al. v. Gregory M. Parker, Inc. d/b/a Parker's Corporation, et al.  
Case No. 2021-CP-25-00392

MOTION TO COMPEL PRODUCTION OF SUBPOENAED MATERIAL ON BEHALF OF GREGORY M  
PARKER, INC. d/b/a PARKER'S CORPORATION, BLAKE GRECO AND JASON D'CRUZ

# EXHIBIT B

## OBJECTIONS



# VAUX MARSCHER BERGLIND

A SOUTH CAROLINA PROFESSIONAL ASSOCIATION

WILLIAM F. MARSCHER, III  
MARK S. BERGLIND  
ROBERTS "TABOR" VAUX, JR.  
STEPHEN MEYER\*

ATTORNEYS AND COUNSELORS AT LAW  
POST OFFICE BOX 769 (MAILING)  
1251 MAY RIVER ROAD (PHYSICAL)  
BLUFFTON, SOUTH CAROLINA 29910  
843.757.2888 (OFFICE)  
843.757.2889 (FAX)

ROBERTS VAUX  
ANTONIA LUCIA, SC & NY  
JAMES P. SCHEIDER, JR. \*\*  
VICTORIA I. TUTEN

\*CERTIFIED FAMILY  
COURT MEDIATOR (SC)  
\*\* OF COUNSEL

tabor.vaux@vmblawfirm.com

February 28, 2023

VIA Email and Mail

Nexsen Pruet, LLC  
Attn: Mark Moore, Esq.  
PO Drawer 2426  
Columbia, SC 29202

**RECEIVED**

**MAR 02 2023**

**NEXSEN PRUET, LLC**

Re: 2021-CP-25-00392; Subpoenas to Mark Tinsley and Tabor Vaux

Dear Mark:

I am in receipt of your subpoenas dated February 15, 2023 to me and to Mark Tinsley. As you know, we are not parties to the above referenced litigation.

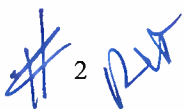
In summary, your subpoena requests documents relating to:

1. Produce any and all documents you produced to any state or federal law enforcement agency, prosecutorial body, and judicial body, including but not limited to the South Carolina Law Enforcement Division and the South Carolina State Grand Jury, that investigated, prosecuted, or heard the criminal allegations against Richard Alexander "Alex" Murdaugh.
2. Produce any and all documents and communications related to potential jury tampering or potential jury "fixing" in the Fourteenth Judicial Circuit of the State of South Carolina for the time period from February 1, 2019, until the present.
3. Produce any and all documents and communications related to potential jury tampering or potential jury "fixing" in the case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M Parker, Inc., et al.*, Case Number 2019-CP-25-00111 or *Renee S. Beach et al. v. Gregory M Parker et al.*, Case Number 2021-CP-25-00392, from February 1, 2019, until the present.
4. Produce any and all documents and communications concerning your knowledge of potential jury tampering or potential jury "fixing" in the



Fourteenth Judicial Circuit of the State of South Carolina for the time period from February 1, 2019, until the present.

5. Produce any and all documents and communications concerning your knowledge of potential jury tampering or potential jury "fixing" in the case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M Parker, Inc., et al.*, Case Number 2019-CP-25-00111 or *Renee S. Beach et al. v. Gregory M Parker et al.*, Case Number 2021- CP-25-00392, from February 1, 2019, until the present.
6. Produce any and all documents and communications related to actual jury tampering or actual jury "fixing" in the Fourteenth Judicial Circuit of the State of South Carolina for the time period from February 1, 2019, until the present.
7. Produce any and all documents and communications related to actual jury tampering or actual jury "fixing" in the case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M Parker, Inc., et al.*, Case Number 2019-CP-25-00111 or *Renee S. Beach et al. v. Gregory M Parker et al.*, Case Number 2021-CP-25-00392, from February 1, 2019, until the present.
8. Produce any and all documents and communications concerning your knowledge of actual jury tampering or actual jury "fixing" in the Fourteenth Judicial Circuit of the State of South Carolina for the time period from February 1, 2019, until the present.
9. Produce any and all documents and communications concerning your knowledge of actual jury tampering or actual jury "fixing" in the case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M Parker, Inc., et al.*, Case Number 2019-CP-25- 00111 or *Renee S. Beach et al. v. Gregory M Parker et al.*, Case Number 2021-CP-25-00392, from February 1, 2019, until the present.
10. Produce any and all communications related to or arising from that certain boating accident of February 23, 2019, and any actions arising therefrom, including but not limited to the case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M Parker, Inc., et al.*, Case Number 2019-CP-25-00111 or *Renee S. Beach et al. v. Gregory M Parker et al.*, Case Number 2021-CP-25-00392, from February 1, 2019, until the present, between you and the following people:
  - a. Richard Alexander "Alex" Murdaugh;
  - b. John Tiller;
  - c. Danny Henderson;
  - d. Ronnie Crosby;

# 2 

- e. Woody Gooding;
  - f. Any agent, representative, attorney, consultant, expert, investigator, and all other persons acting on behalf of Peters Murdaugh Parker Eltzroth & Detrick, PA;
  - g. Any agent, representative, attorney, consultant, expert, investigator, and all other persons acting on behalf of Parker Law Group, LLP; and
  - h. Mark Tinsley/Tabor Vaux.
11. Produce any and all communications with Richard Alexander "Alex" Murdaugh, or any agent, representative, attorney, consultant, expert, investigator, and all other persons acting on behalf of Richard Alexander "Alex" Murdaugh, related to or regarding the identification of the actual or potential parties in the case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M Parker, Inc., et al.*, Case Number 2019-CP-25-00111.
12. Produce any and all communications with Peters Murdaugh Parker Eltzroth & Detrick, PA, or any agent, representative, attorney, consultant, expert, investigator, and all other persons acting on behalf of Peters Murdaugh Parker Eltzroth & Detrick, PA, related to or regarding the identification of the actual or potential parties in the case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M Parker, Inc., et al.*, Case Number 2019-CP-25-00111.
13. Produce any and all documents evidencing anything of value provided by you in the last five (5) years to any actual party, actual witness, potential witness, actual juror, or identified as a potential juror in the Fourteenth Judicial Circuit of the State of South Carolina, including but not limited to any actual party, actual witness, potential witness, actual juror, or identified as a potential juror:
- a. in the civil case of *Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M Parker, Inc., et al.*, Case Number 2019-CP-25-00111;
  - b. in the civil case of *Renee S. Beach et al. v. Gregory M Parker et al.*, Case Number 2021-CP-25-00392; and
  - c. in the double-homicide criminal case against Richard Alexander "Alex" Murdaugh, i.e. *The State of South Carolina v. Richard Alexander "Alex" Murdaugh*, Indictment Numbers 2022-GS-15-00592 – 00595.

Pursuant to Rule 45, SCRCP, we object to the subpoenas. All of the categories of production requests above impose an undue burden on Mark Tinsley and me, and they seek to require us to produce privileged or otherwise protected material. Further, all of the requests lack relevance, and are all beyond the scope of production required of a non-party to litigation. Even if there are such communications, many, if not all, are subject to privilege. There is no connection between our communications to the issues at hand in the

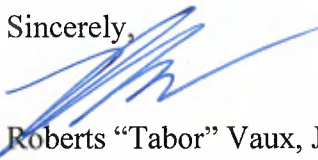
subject litigation, and neither of us are a party to this litigation. As such, the requests seek to place a burden for no particular reason other than to unduly burden and harass us. This type of discovery abuse is plainly prohibited by Rule 45, which requires a party or an attorney responsible for the issuance and service of the subpoena to take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena.

The tenth, eleventh, twelfth, and thirteenth requests appear to be confidential, proprietary or privileged documentation pursuant to S.C. R. Civ. P. 26(b)(1), and the scope of the Subpoenas encompass information and documentation that is irrelevant to the litigation. South Carolina courts have interpreted "undue burden" as requesting materials irrelevant to the matter before the court. See *Taylor v. Taylor*, 2021 S.C. App. LEXIS 66 at \*22 (citing *Ex parte Smith*, 407 S.C. 422, 422-23, 756 S.E.2d 386, 386 (2014)). As a non-party, Mr. Tinsley and I are entitled to protection from undue burden and to the benefit of a heightened analysis of relevance required for production.

For the foregoing reasons, we object to the aforementioned subpoenas while reserving our right to provide additional support and/or reasons for our positions.

Notwithstanding the abovementioned objection, we do not have any documents responsive to the requests regarding jury tampering and/or "fixing."

Sincerely,



Roberts "Tabor" Vaux, Jr.

Renee S. Beach, et al. v. Gregory M. Parker, Inc. d/b/a Parker's Corporation, et al.  
Case No. 2021-CP-25-00392

MOTION TO COMPEL PRODUCTION OF SUBPOENAED MATERIAL ON BEHALF OF GREGORY M.  
PARKER, INC. d/b/a PARKER'S CORPORATION, BLAKE GRECO AND JASON D'CRUZ

# EXHIBIT C

**E-MAIL DATED MARCH 3, 2023**

**From:** Moore, Mark C.  
**Sent:** Friday, March 3, 2023 12:45 PM  
**To:** Tabor Vaux; Mark Tinsley  
**Cc:** McWilliams, Susan P.; nedtupper@tgdcpa.com; Deborah Barbier; angela@goodingandgooding.com; Laine Gooding; Ricard, Rhett D.  
**Subject:** RE: Beach, et al. v Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPDocuments.FID4872016]

Tabor:

We have received your letter and we assume from our review that you are speaking not only for yourself but for Mark as well. We disagree your assertions and believe the subpoenas at issue are not only appropriate but narrowly tailored to produce non-privileged, discoverable information—and as you are aware, to the extent you believe the subpoenas call for privileged information, you are free to deal to identify such information through a privilege log.

We are reaching out to consult with you in hopes of avoiding the filing of a motion to compel. Please let us know by 5 pm on Monday, March 6 as to whether you believe a meet and confer would be helpful in attempting to resolve some or all of the issues here. If we do not hear from you by that time, we will assume we are at an impasse and will proceed accordingly.

Best,

Mark

**Mark Moore**  
Member  
MMoore@nexsenpruet.com  
Nexsen Pruet, LLC  
1230 Main Street Suite 700  
Columbia, South Carolina 29201  
W: (803) 540-2146



Nexsen Pruet has agreed to merge with Maynard Cooper & Gale on April 1, 2023.

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**From:** Tabor Vaux <tabor.vaux@vmblawfirm.com>  
**Sent:** Tuesday, February 28, 2023 10:02 AM  
**To:** Ricard, Rhett D. <RRicard@nexsenpruet.com>  
**Cc:** McWilliams, Susan P. <SMcWilliams@nexsenpruet.com>; Moore, Mark C. <MMoore@nexsenpruet.com>; nedtupper@tgdcpa.com; Deborah Barbier <dbb@deborahbarbier.com>; angela@goodingandgooding.com; Mark Tinsley <mark@goodingandgooding.com>; Laine Gooding <laine@goodingandgooding.com>  
**Subject:** RE: Beach, et al. v Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPDocuments.FID4872016]

{EXTERNAL EMAIL}

Mark/Rhett, please see attached.

Tabor Vaux  
Vaux Marscher Berglind, PA  
Bluffton, SC  
843-757-2888

**CONFIDENTIALITY NOTICE:** This email may contain confidential and privileged material for the sole use of the intended recipient(s). Any review, use, distribution or disclosure by others is strictly prohibited. If you have received this communication in error, please notify the sender immediately by email and delete the message and any file attachments from your computer.



Renee S. Beach, et al. v. Gregory M. Parker, Inc. d/b/a Parker's Corporation, et al.  
Case No. 2021-CP-25-00392

MOTION TO COMPEL PRODUCTION OF SUBPOENAED MATERIAL ON BEHALF OF GREGORY M  
PARKER, INC. d/b/a PARKER'S CORPORATION, BLAKE GRECO AND JASON D'CRUZ

# EXHIBIT D

## JUDGE YOUNG MEMO





State of South Carolina  
The Circuit Court of the Ninth Judicial Circuit

Roger M. Young, Sr.  
Judge

Charleston County Judicial Center  
100 Broad Street, Suite 368  
Charleston, SC 29401  
Phone: (843) 958-2015  
Fax: (843) 958-5108  
ryoungj@sccourts.org

MEMORANDUM

To: Attorneys and Parties with Discovery motions  
From: Judge Roger Young  
Subject: Preparation for discovery motions  
Date: August 29, 2019

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The following may assist you in preparation for your hearing. If you have resolved your motions, please advise the Clerk's office.

**Boilerplate or generalized objections are tantamount to no objection at all**

Each discovery response, whether to an interrogatory or discovery response, whether to an interrogatory or discovery production is to be answered or objected to separately. The rule is clear that each interrogatory "shall be answered separately and fully in writing..." SCRPC, Rule 33(a). If there are objections to interrogatories or requests for interrogatories or requests for production, "the reasons for objection shall be stated..." SCRPC, Rules 33(a) and 34(b). Whether the reasons are satisfactory is to be decided on a case by case basis. However, keeping in mind the general purposes and concepts stated in the rules can help combat frivolous and obfuscatory objections.

"An affirmative duty does exist to answer interrogatories and respond to requests to produce." *CFRE, LLC v. Greenville County Assessor LLC v. Greenville County Assessor*, 395 S.C. 67, 395 S.C. 67, 83, 716 S.E.2d 877, 885 (2011)83, 716 S.E.2d 877, 885 (2011). Objections to interrogatories must be specific and supported by a detailed explanation why the interrogatories are improper or may result in waiver of the objections. *In re Folding Carton Antitrust Litigation.*, 83 F.R.D. 260, 264 (N.D. Ill. 1979). The mere statement by a party that the by a party that the interrogatory was "overly broad, burdensome, oppressive and irrelevant" is not adequate to voice a successful objection to an interrogatory. *Josephs v. Harris Corp.* 677 F.2d 985, 992 (3d Cir. 1982). Parties shall not make nonspecific, boilerplate objections. **Objections that state that the discovery request is "vague, overly broad, or unduly burdensome" are, standing alone, meaningless and will be found meritless by the court.** A party objecting must explain the specific and particular way in which a given request is vague, overly broad, or unduly

burdensome.<sup>1</sup> *Curtis v. Time Warner Entm't-Advance/Newhouse P'ship*, 2013 WL 2099496, at \*2 (D.S.C. May 14, 2013). Parties should not recite a formulaic objection followed by an answer to the request. It has become common practice for a party to object on the basis of any of the above reasons and then state that, “notwithstanding the above,” the party will respond to the discovery request, subject to or without waiving such objection. Such an objection and answer preserve nothing and serves only to waste the time and resources of both the parties and the court. Such practice leaves the requesting party uncertain as to whether the question has actually been actually been fully answered or whether only a portion of the question has been answered. *Id.* citing 2004 A.B.A. Civil Discovery Standards, 2004 A.B.A. Sec. Lit. 18. One objecting to discovery must show specifically how, despite the broad and liberal construction afforded the discovery rules, each interrogatory is not relevant or how each question is overly broad, burdensome or oppressive, by submitting affidavits or offering evidence revealing the nature of the burden. *Roesberg v. Johns-Manville Corp.*, 85 F.R.D. 292, 296 (E.D. Pa. 1980). It is not proper to object merely because answering interrogatories may require expending considerable time, effort or expense or may interfere with business operations. *Id.* at 97.

“General objections” that purportedly apply to all discovery responses are improper. These general objections do not comply with the letter or spirit of the rules as they do not provide the specificity required to each request.<sup>2</sup>

<sup>1</sup> <sup>1</sup> *Walker v. Lakewood Condo. Owners Ass'n*, 186 F.R.D. 584, 587 (C.D. Cal. 1999); *see also Steed v. EverHome Mortg. Co.*, 308 Fed. Appx. 364, 371 (11th Cir. 2009) (“[B]oilerplate objections may border on a frivolous response to discovery requests.”); *McLeod, Alexander, Powell & Apffel, P.C. v. Quarles*, 894 F.2d 1482, 1485 (5th Cir. 1990) (“[T]o say an interrogatory was overly broad, burdensome, oppressive and irrelevant [is] not adequate to voice a successful objection to an interrogatory.” (internal quotations omitted)); *Josephs v. Harris Corp.*, 677 F.2d 985, 992 (3d Cir. 1982) (“[T]he mere statement by a party that the interrogatory was ‘overly broad, burdensome, oppressive and irrelevant’ is not adequate to voice a successful objection to an interrogatory.”); *Adelman v. Boy Scouts of Am.*, 276 F.R.D. 681, 688 (S.D. Fla. 2011) (“[B]oilerplate objections [are] legally inadequate or meaningless.”); *Nissan N. Am., Inc. v. Johnson Elec. N. Am., Inc.*, 2011 WL 669352, at \*2 (E.D. Mich. Feb. 17, 2011) (“Boilerplate or generalized objections are tantamount to no objection at all ....”); *Hager v. Graham*, 267 F.R.D. 486, 498 (N.D. W. Va. 2010) (“The objection is only a general statement that does not specify how the [request for production] is vague, ambiguous, and overly broad. Therefore, the objection is improper.”); *Enron Corp. Sav. Plan v. Hewitt Assocs., L.L.C.*, 258 F.R.D. 149, 159 (S.D. Tex. 2009) (“Boilerplate objections are not acceptable; specific objections are required ....” (internal quotations omitted)); *A. Farber & P's, Inc. v. Garber*, 234 F.R.D. 186, 188 (C.D. Cal. 2006) (“[G]eneral or boilerplate objections such as ‘overly burdensome and harassing’ are improper—especially when a party fails to submit any evidentiary declarations supporting such objections.”).

<sup>2</sup> *Mills v. E. Gulf Coal Preparation Co., LLC*, 259 F.R.D. 118, 132 (S.D. W. Va. 2009) (“Failure to state objections specifically in conformity with the Rules will be regarded as a waiver of those objections.”); *Sabol v. Brooks*, 469 F. Supp. 2d 324, 328 (D. Md. 2006) (“[F]ailure to make particularized objections to document requests constitutes a waiver of those objections.”); *In re Folding Carton Antitrust Litig.*, 83 F.R.D. 260, 264 (N.D. Ill. 1979) (“General objections may

For an objecting party to carry its burden, the objection must be specific, the party making it must explain why it applies on the facts of the case to the request being made, and if the party is providing information subject to the objection, the party must articulate how it is applying the objection to limit the information it is providing.<sup>3</sup> In short, objections should be plain enough and specific enough so that the Court can understand in what way the discovery is claimed to be objectionable. See generally *Curtis v. Time Warner Entmt'-Advance/Newhouse P'ship*, 2013 WL 2099496, at \*2 (D.S.C. May 14, 2013). See generally *Kosieradzki & Rahimi, supra*, at 30–31 (“Objections must be sufficiently particular to advise the requesting party and the court to what extent the discovery request is objectionable.”).

General objections to requests as excessive, overbroad, and unduly burdensome, without more detail as outlined herein, are considered by the Court as *per se* insufficient. The objecting party must show specifically how each discovery request is burdensome or oppressive by submitting affidavits or offering evidence revealing the nature of the burden. *Oleson v. Kmart Corp.*, 175 F.R.D. 560, 565 (D. Kan. 1997); accord *Roesberg v. Johns–Manville Corp.*, 85 F.R.D. 292, 29–97 (E.D. Pa. 1980) (explaining that an objecting party “must show specifically how ... each interrogatory is not relevant or how each question is overly broad, burdensome or oppressive ... by submitting affidavits or offering evidence revealing the nature of the burden” (internal citations omitted)). Responses which provide no information whatsoever in support of these assertions are very likely to be overruled and may be sanctionable if deemed to be abusive violations by the Court.

### **Use of Standard Interrogatories – Abusive Objections**

Rule 33(b) lists specific interrogatories that are allowed “[i]n all cases...” and should be served. Attorneys responding to these standard interrogatories with paragraphs of copy and paste generic objections are engaging in dilatory conduct. Neither attorneys nor courts should tolerate such obstructive behavior.

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result in waiver of the objections.”). See generally *Wise, supra*, at 569 (“[B]ecause general objections are nonspecific and ‘hide the ball’ with respect to what information or material is being provided and what information or material is being withheld and why ... [they] have been universally condemned by courts for this very reason.”); Mark Kosieradzki & Kara Rahimi, *Keep Discovery Civil: When Opposing Counsel Obstructs or Deflects Your Access to Evidence, Look to the Rules and Long–Settled Case Law for Relief. Both Are on Your Side*, Trial, June 2008, at 32 (“[C]ourts have held that asserting numerous general objections obscures any valid objections and may result in a waiver of the valid objections absent a showing of good cause.”).

<sup>3</sup> See *Josephs*, 677 F.2d at 992 (explaining that a party's objections must “show specifically how each interrogatory is not relevant or how each question is overly broad, burdensome or oppressive” (internal quotations and alterations omitted)); *DL v. District of Columbia*, 251 F.R.D. 38, 43 (D.D.C. 2008)(explaining that if party's objections “are not applied with sufficient specificity to enable this Court to evaluate their merits ... this Court will overrule [the party's] objections in their entirety”); *Folding Carton*, 83 F.R.D. at 264 (“Objections to interrogatories must be specific and [be] supported by a detailed explanation why the interrogatories are improper.”).

Rule 33(b) requires responding with important facts known or observed by witness so that the summary is restricted to the actual knowledge of the witness. Note to Rule 33(b). The rules make it clear that specific objections and reasons are required when responding. There can be no good reason to objecting to standard interrogatories.

### **Production of Documents**

As to documents produced in response to discovery requests, the responding party shall produce them "as" they are kept in the usual course business or shall organize and label them to correspond with the categories in the request." SCRCP, Rule 34(b). If the form for producing the information is not specified or otherwise agreed upon, the responding party must produce the information in a form which it is ordinarily maintained that is reasonably usable. SCRCP, Rule 34(b)(1). When dealing with electronic discovery, it "must relate to the claims and defenses asserted in the pleadings and should serve as a means for facilitating a just and cost-effective resolution of disputes." Notes to 2011 Amendment, SCRCP, Rule 34.

### **Duty to Consult Before Moving to Compel**

One submitting discovery requests may move for an order under Rule 37(a) with respect to any objection to or other failure to answer the interrogatory or request for production. SCRCP, Rule 33(a) and 34(b). If the discovery responses received are improper, consult with the other party and try to resolve the issues. Rule 11 requires that before filing a motion, one communicate with opposing counsel and attempt in good faith to resolve the matter contained in the motion, unless the movant's counsel certifies that consultation would serve no useful purpose or could not be timely held. SCRCP, Rule 11(a). After consulting, compromises may be reached so that only the actual controversies are presented to the court.

The rule requires that the movant's counsel affirm that consultation has taken place. Attaching correspondence showing the attempts to resolve the matter with the articulated reasons from both sides can help demonstrate the issues for the court.

### **Burden — Motion to Compel**

After consulting as required, one needs to move to compel the other side to sufficiently respond to your requests. As part of the motion, provide the court with both the request and the responses at issue, and explain why the responses are deficient in the context of the case. Articulate specific reasons, not generalities as to why the discovery sought is proper. Generally, the initial burden is on the party moving to compel to inform the court (1) which discovery requests are the subject of the motion, (2) which responses are disputed, (3) why the party believes the responses are deficient, (4) why any objections are not justified, and (5) why the information sought through discovery is discoverable. After the moving party has met its burden, the party resisting discovery must show specifically how each interrogatory or request for production is not relevant or how each is overly broad, burdensome or oppressive. If claims of privilege or work product are made, the factors and facts supporting such claims should be supported with specifics, not



generalities, in the form of a privilege log that will provide enough information for you and the court to evaluate the objection.

### **Opinions and Contentions Proper**

The rules allow one to serve discovery designed to eliminate the need for depositions or other expensive ways of establishing opinions or contentions of the parties. An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law. SCRCP, Rule 33(d). Similarly, requests for admission may be served for purposes of the pending action only concerning any matters within the scope of Rule 26(b) that relate to statements or opinions of fact or of the application of law, including the genuineness of any documents described in the request. SCRCP, Rule 36(a). Further, opinions of experts are proper subjects of discovery as well. SCRCP, Rule 26(b)(4)(A).

### **Privilege Log - Express Claims of Privilege or Trial Preparation**

A party may withhold information otherwise discoverable by expressly claiming such material is privileged or subject to protection as trial preparation material. SCRCP, Rule 26(b)(5). The claim shall be made expressly and shall describe the nature of the documents, communications or things not produced or disclosed in a manner that, without revealing the information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection. SCRCP, Rule 26(b)(5)(A-B). *See also* Note to 1996 Amendment. The Rules expressly require the disclosure of the nature of evidence prior to any claim of privilege so other parties may assess the applicability of the privilege or protection. *Samples v. Mitchell*, 329 S.C. 105, 111, 495 S.E.2d 213, 216 n.5 (Ct. App. 1997). The obligation to describe what is being withheld and why also applies to non-parties when responding to a subpoena, under SCRCP, Rule 45(d)(2). SCRCP, Rule 26(b)(5) Note to 1996 Amendment.

For, example, the work product rule would not excuse the failure to disclose the existence of a surveillance video tape pursuant to the standard interrogatories. If an attorney believed the other side had no right to this evidence, either because of relevancy or because of the work product rule, she should have either objected to the interrogatory or disclosed the existence, but not the content, of the evidence and moved for a protective order. *Samples v. Mitchell*, 329 S.C. 105, 111, 495 S.E.2d 213, 216 (Ct. App. 1997). The decision whether a document is privileged is for the court, not the party. Privileged Matter—Assertion of Privilege, 8 Fed. Prac. & Proc. Civ. § 2016.1 (3d ed.). In making determinations as to the adequacy of the privilege log, the court should be guided by a sense of reasonableness in deciding what should be required. *Id.*

The use of a "privilege log" by party withholding the material is designed to satisfy the requirement that the claim to be made expressly and provide the other party with an opportunity to assess the applicability of the claimed privilege or protection. The description should provide a feasible means of understanding why each document is privileged or protected. Depending on the case, a privilege log may consist of details like a description and date of the document along with who created and received it. The required detail of the privilege log should be decided on a

case by case basis. However, the log should not generically assert privilege or simply use words like “privileged document.”

### **Attorney-Client Privilege**

Generally, the party asserting the privilege must establish the confidential nature of the communication. *State v. Doster*, 276 S.C. 647, 653, 284 S.E.2d 218, 220 (1981). To establish an attorney-client privilege, the person asserting the privilege must show that the relationship between the parties was that of attorney and client and that the communications were confidential in nature for the purpose of obtaining legal advice. *Crawford v. Henderson*, 356 S.C. 389, 395, 589 S.E.2d 204, 207-08 (Ct. App. App. 2003). The essential elements giving rise to the privilege were stated by Wigmore to be: "(1) Where legal advice of any kind is sought, (2) from a professional legal adviser in his capacity as such, (3) the communications relating to that purpose, (4) made in confidence (5) by the client, (6) are at his instance permanently protected (7) from disclosure by himself or by the legal adviser, (8) except the protection be waived." *State v. Doster*, 276 S.C. 647, 651, 284 S.E.2d 218, 219-20 (1981).

The privilege must be tailored to protect only confidences disclosed within the relationship. And the court must determine the question of privilege without first requiring disclosure of the substance of the communication. *Id.* Not every communication within the attorney and client relationship is privileged. The privilege does not extend to communications in furtherance of criminal, tortious or fraudulent conduct. *Id.*

### **Attorney Work Product and Limitations**

“The attorney work product doctrine protects discovery documents prepared in anticipation of litigation, unless a substantial need can be shown by *the requesting party*.” *Stokes Craven—Holding Corp. v. Robinson*, 416 S.C.517, 537, 787 S.E.2d 485, 495 (2016). “Generally, in determining whether a document has been prepared ‘in anticipation of litigation,’ most courts look to whether or not the document was prepared because of the prospect of litigation.” *Id.*

"The document must be prepared *because* of the prospect of litigation when the preparer faces an actual claim or a potential claim following an actual event or series of events that reasonably could result in litigation." *Nat'l Union Fire Ins. Co. of Pittsburgh, Pa. v. Murray Sheet Metal Co.*, 967 F.2d 980, 984 (4th Cir. 1992). Thus, materials prepared in the ordinary course of business or pursuant to regulatory requirements or for other non-litigation purposes are not documents prepared in anticipation of litigation within the meaning of Rule 26(b)(3). *Id.* See also, *Tobaccoville USA, Inc. v. McMaster*, 387 S.C. 287, 294, 692 S.E.2d 526, 530 (2010). A party must show more than a statute governing the party's actions considers the possibility of future litigation or concerns litigation. *Id.*

### **Motion for Protection**

If the discovery process threatens to become abusive or create a particularized harm to a litigant or third party, the trial judge may issue an order "to protect a party or person from annoyance, embarrassment, oppression, or undue burden by expense." *Hollman v. Woolfson*, 384 S.C. 571,

578, 683 S.E.2d, 495, 498(2009). "The person requesting protection from the court or Commission must initially show good cause by alleging a particularized harm which will result if the challenged discovery is had...Once the party seeking the protective order has met its burden of showing good cause by alleging a particularized harm, the party seeking the discovery must come forward and show that the information that is sought 'is both relevant and necessary to the case. When both parties meet their burden of proof, the court must weigh the opposing factors.'" *Hamm v. SCPSC*, 312 S.C. 238, 439 S.E.2d 852, 854 (1994); *see also, Hollman v. Woolfson*, 384 S.C. 571, 578, 683 S.E.2d 495, 498 (2009).

### Duty To Supplement

A party who has responded to a discovery request under Rules 31, 33, 34 and 36 with a response that was complete when made is under a duty to promptly transmit to the other party information sought which comes to the knowledge of a party, his representative or attorney after the original answers have been submitted. SCRCP, Rule 26(e). "This duty to supplement does not apply to discovery under Rule 30 Depositions Upon Oral Examination."

"[T]here is an additional duty to provide supplemental information on expert witnesses and witnesses with knowledge of the facts of the case regardless of the form of the discovery request. The obligation to supplement prior discovery responses includes the duty to amend or supplement answers which are found to be incorrect or misleading..." SCRCP, Rule 26(e) Note to 1996 Amendment.

### Conclusion

The moving party shall provide an affidavit detailing the attempts to resolve the motion prior to the hearing shall be presented. The affidavit should list a statement of services rendered which details the time and fees generated from pursuit of the discovery sought in the Motion to Compel. **Affidavits, briefs and proposed Orders** granting the requested relief and leaving a blank for the amount of fees and costs to be awarded **shall be presented to the court at the hearing** and shall also be served on opposing counsel prior to the hearing. **Failure to comply may result in denial of the relief.**

As to any objection to discovery on the basis that the information sought is either privileged or work product, the objecting party shall prepare and present at the time of the hearing their **privilege log** detailing the basis for the claim to privilege or reason why it should be excluded from production.

**At a minimum**, the privilege log should detail the date of the communication/statement, who prepared or made the statement, to whom the statement was directed to and finally, the specific basis for the privilege should be included in the log. While this will necessitate much more work on the part of the party claiming the privilege, **failure to prepare and bring** this log to the hearing will result in the **privilege claimed considered waived** by the court and the **motion to compel shall be granted**.

The Motion to Compel hearing shall constitute a hearing under Rule 37(d) 4, SCRCP.