

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 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—raising allegations of the disclosure of mediation material used in the Related Civil Action—was filed on December 3, 2021. In early 2022, a discovery dispute arose involving subpoenas issued to third parties by Plaintiffs’ counsel. The Parker’s Defendants asserted privilege over a majority of the documents subpoenaed by Plaintiffs’ counsel, which were within the possession, custody, and control of: (1) Inquiry Agency, LLC, operating through Sara Capelli (“**Inquiry Agency Files**”); and (2) the Laurens Group / Push Digital, LLC, operating at the direction of Wesley Donehue (“**Laurens Group Files**”). These agents and individuals were each separately subpoenaed by Plaintiffs’ counsel in January and February of 2022 (the “**Subpoenaed Third Parties**”). As has been detailed in numerous pleadings, despite the fact that the Parker’s Defendants’ had asserted privilege, Plaintiffs’ counsel improperly and inappropriately solicited, obtained, and reviewed all of the Laurens Group Files, prior to any written Court order. Importantly, Mr. Tinsley admitted to the Court he received the Laurens Group Files from Wesley Donehue, but expressly denied receiving anything from Sara Capelli. (Exhibit A, May 9 Hearing Transcript, p. 7, l. 17 – p. 9, l. 18.)

Subsequently, the Court ordered the Subpoenaed Third Parties to produce all of the subpoenaed documents without a privilege log. Because the Court never conducted a privilege review, the Parker’s Defendants filed a Petition for Writ of Mandamus on May 23, 2022. In an Order dated September 15, 2022, the South Carolina Supreme Court held the Petition for Writ of Mandamus in abeyance and directed Judge Price to advise within fifteen days of said Order “whether he finally determined the evidence subpoenaed was not privileged and was, therefore, discoverable.” Because no request prior to this date was made to the Parker’s Defendants to submit a privilege log, the Parker’s Defendants immediately submitted a privilege log to the Court the following day, on September 16, 2022. On September 20, 2022, Judge Price submitted a letter to

the South Carolina Supreme Court informing it that he had “not made a final determination as to privilege,” and that he intended “to review the privilege log [submitted by the Parker’s Defendants] and [would] make specific findings of fact.”

On October 5, 2022, the South Carolina Supreme Court granted the Parker’s Defendants’ Petition for Writ of Mandamus seeking an *in camera* review of the subpoenaed documents that the Parker’s Defendants asserted were protected by the attorney-client privilege and work product doctrine. The South Carolina Supreme Court ordered the Court to review the privilege log submitted by the Parker’s Defendants along with documents over which the Parker’s Defendants asserted privilege. In addition, the South Carolina Supreme Court ordered the Court to make a final determination with specific findings as to which documents within the Inquiry Agency Files and the Laurens Group Files on the privilege log are subject to attorney-client privilege or protected by the attorney work product doctrine.

On November 21, 2022, the Court, via its law clerk, requested a status conference regarding the privilege log submitted by the Parker’s Defendants on September 16, 2022. Following the status conference on November 22, 2022, the Court requested a more detailed privilege log on November 28, 2022, which prompted several e-mail exchanges to the Court on behalf of Plaintiffs and the Parker’s Defendants. On December 2, 2022, the Court instructed the Parker’s Defendants to submit an updated privilege log, which was submitted on January 3, 2023.

The Court scheduled an *ex parte, in camera* hearing for February 16, 2023. Counsel for the Parker’s Defendants were present at the hearing as was Mr. Vaux as counsel for the Plaintiffs. At the outset of the hearing, the Court indicated it would be most efficient to determine which documents Plaintiffs’ counsel actually intended to use, given that Plaintiffs’ counsel already possessed the Laurens Group Files (albeit improperly). Mr. Vaux then provided the Court with one hard-copy of five separate compilation of documents within the Laurens Group Files, none of which

was Bates-stamped.¹ The Court then excused Mr. Vaux and sealed the courtroom in order to conduct an *in camera*, *ex parte* hearing with counsel for the Parker's Defendants. After the hearing, counsel for the Parker's Defendants contacted Mr. Vaux to request electronic copies of the five compilations of documents Plaintiffs' counsel intended to use. Mr. Vaux subsequently provided six (not five) sets of documents to counsel for the Parker's Defendants on February 21, 2023.²

One portion of the documents produced by Mr. Vaux, totaling twenty-five (25) pages, is especially concerning, because these pages are *not* in the Laurens Group Files, but instead appear to come from the Inquiry Agency Files, as they are investigatory reports authored and compiled by Sara Capelli. Not until the Parker's Defendants were able to take a more comprehensive review of this compilation following the February 16, 2022 *in camera* hearing were the Parker's Defendants aware Plaintiffs' counsel were in possession of some or all of the Inquiry Agency Files. These documents were not produced by Plaintiffs' counsel to the Court or to counsel for the Parker's Defendants. At this juncture, it is unclear how Plaintiffs' counsel obtained these particular pages. Moreover, the pages submitted by Plaintiffs' counsel include handwriting on them, whereas the ones provided by Sara Capelli's legal counsel to the Parker's Defendants and subsequently

¹ The Parker's Defendants were not advised prior to the hearing that the Court intended to discuss only the documents that Mr. Tinsley and Mr. Vaux intended to actually use in a proceeding at the February 16, 2023 hearing. Although Mr. Tinsley indicated in a November 29, 2022 e-mail to the Court that he was pulling documents he was primarily interested in and was going to Bates-stamp them himself, the Court did not indicate prior to the hearing that it intended to proceed in the manner that Mr. Tinsley suggested. Mr. Vaux then showed up at the hearing with a hard-copy of five categories of these particular documents without providing any notice to the Parker's Defendants of his intention to do so—and these documents were, notably, not Bates-stamped.

² At the February 16, 2023 hearing, counsel for the Parker's Defendants implicitly argued all documents contained within the privilege log were privileged and explicitly argued for the privilege of the Inquiry Agency Files. Further, in the Parker's Defendants March 24, 2023 Supplemental Brief, which was submitted *in camera* and *ex parte*, the Parker's Defendants expressly stated that they continued to assert the Court is required to rule on each document or categories of documents in the Laurens Group Files and Inquiry Agency Files and that they did not waive any assertions of privilege over any other documents for which it has previously asserted privilege, but which were not identified by Plaintiffs' counsel via their six subsets of documents.

provided to the Court do not contain this handwriting. Further, it is clear from the Court's recent Order of May 24, 2023, that Plaintiffs' counsel is in possession of privileged documents.

As discussed in multiple pleadings, the Parker's Defendants learned of multiple grounds justifying disqualification of Plaintiffs' counsel. This particular discovery of unauthorized documents within the possession of Plaintiffs' counsel presents a clear cause for concern and grounds for further discovery against Plaintiffs' counsel, because Plaintiffs' counsel received these documents without going through the proper channels and procedures. Moreover, Plaintiffs' counsel never informed the Parker's Defendants or the Court as to their possession of these files related to Sara Capelli. Indeed, as previously mentioned, Plaintiffs' counsel has expressly denied receiving any documents from Sara Capelli. (Exhibit A, May 9 Hearing Transcript, p. 7, l. 17 – p. 9, l. 18.)

As a result, counsel for the Parker's Defendants notified the Court and all parties of this issue on March 15, 2023. (E-mail attached as **Exhibit B**.) The Parker's Defendants subsequently served the Subpoenas on Mr. Vaux and Mr. Tinsley on April 7 and April 10, 2023, respectively, seeking documents that are in the possession, custody, or control of Plaintiffs' counsel. These Subpoenas were reasonably calculated to lead to the discovery of admissible evidence related to Plaintiffs' counsel unauthorized possession of documents received from the Subpoenaed Third Parties by Plaintiffs' counsel. (Subpoenas attached as **Exhibit C**.) On April 20, 2023, Plaintiffs' counsel submitted written objections. (Objections attached as **Exhibit D**.) In response, on May 3, 2023, counsel for the Parker's Defendants e-mailed Plaintiffs' counsel and requested a response as to whether a meet-and-confer would be helpful by May 5, 2023. As of the date of this filing, Plaintiffs' counsel have failed to respond to the May 3, 2023 e-mail.

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), SCRCP; *see also 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), 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.”).

III. ARGUMENT

A. Because the Subpoenas Are Reasonably Calculated to Lead to the Discovery of Admissible Evidence Related to the Potential Disqualification of Counsel, the Court Should Order the Production of the Subpoenaed Material.

The documents sought by the Parker's Defendants are relevant to the claims in this case and the pending motion seeking to disqualify Plaintiffs' counsel. Specifically, the material is relevant to Plaintiffs' counsel's improper and unauthorized pursuit, receipt, and review of privileged materials within the Laurens Group Files and Inquiry Agency Files as well as Mr. Tinsley's representations to the Court that he never received any documents from Sara Capelli. It is now clear that Plaintiffs' counsel has possession of at least twenty-five pages which were *not* provided to the Parker's Defendants by the Subpoenaed Third Parties. Because those pages were presumably obtained from one of the Subpoenaed Third Parties, the Subpoenas are narrowly tailored to seek documents obtained only from these sources. It is both relevant and necessary for the Parker's Defendants to ascertain exactly which documents Plaintiffs' counsel obtained from the Subpoenaed Third Parties to determine if Plaintiffs' counsel might have any other documents they should not have. Further, the Parker's Defendants also need to be able to review and assert privilege over any documents in Plaintiffs' counsel's possession that were not provided to the Parker's Defendants by the Subpoenaed Third Parties. Because the documents sought are relevant to the subject matter in this action, the Court should compel Plaintiffs' counsel to produce the documents requested pursuant to the Subpoenas.

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

In response to the Subpoenas, Plaintiffs' counsel submitted essentially two boilerplate, generalized objections, based on undue burden and abuse. (Ex. D, Objections). 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. 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 E**); Scott Moïse, *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”³ *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 why and how these Subpoenas are abusive or unduly burdensome, this Court should reject these objections as meaningless and without merit.

³ 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 & 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 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’rs, 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.”).

C. The Subpoenas Are Not a Circumvention of the Discovery Rules as Parker's Defendants Cannot Obtain these Documents from a Party.

In their objections, Plaintiffs' counsel also argue that they are not the appropriate recipients of Subpoenas in this case and that Parker's Defendants are attempting to circumvent Rule 34 for the production of documents belonging to a party. (Ex. D, Objections) (citing *Layman v. Junior Players Golf Acad., Inc.*, 314 F.R.D. 379, 384 (D.S.C. 2016)). Plaintiffs' counsel cite to *Layman*, 314 F.R.D. at 384, for the proposition that if documents are possessed by parties and non-parties, then documents should be attempted to be obtained via discovery from the parties under Rule 34 rather than from non-parties via Subpoenas pursuant to Rule 45. *Id.* However, *Layman* is distinguishable. Here, Parker's Defendants cannot obtain the necessary documents from Plaintiffs because the Subpoenas specifically seek documents obtained by Plaintiffs' counsel, which may or may not be within the possession of Plaintiffs. *See Sherrill v. DIO Transport, Inc.*, 317 F.R.D. 609 (D.S.C. 2016) (distinguishing *Layman* and holding defendants were not circumventing Rule 34 because they could not obtain the necessary documents from the party himself). As discussed above, some pages submitted by Plaintiffs' counsel include handwritten notes on them, whereas the ones provided by Sara Capelli's legal counsel to the Parker's Defendants and the Court do not contain this handwriting. Put simply, the documents differ. Parker's Defendants are not attempting to circumvent Rule 34; they are seeking specific documents in the possession, custody, and control of Plaintiffs' counsel, which cannot be obtained from Plaintiffs. Thus, Plaintiffs' counsel's objections are without merit and should be categorically rejected by this Court.

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.

Respectfully submitted,

s/ Mark C. Moore

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May 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

EXHIBIT A

MAY 9, 2022 HEARING TRANSCRIPT

1 STATE OF SOUTH CAROLINA
2 IN THE COURT OF COMMON PLEAS
3 COUNTY OF HAMPTON

4 Renee S. Beach, Phillip Beach,
5 Robin Beach, Savannah Tuten,
6 and Seth Tuten,

7 Plaintiffs,

8 vs. Transcript of Record
9 2021-CP-25-00392

10 Gregory M. Parker, Gregory
11 M. Parker, Inc. d/b/a Parker's
12 Corporation, Blake Greco,
13 Jason D'Cruz, Vicky Ward,
14 Max Fratoddi, Henry Rosado,
15 and Private Investigation
16 Services Group, LLC.,

17 Defendants.

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B E F O R E:

The HONORABLE BENTLEY PRICE

A P P E A R A N C E S:

Mark Tinsley, Representing the Plaintiffs
Tabor Vaux, Representing the Plaintiffs
Deborah B. Barbier, Representing the Defendants
Ralph E. Tupper, Representing the Defendants

SHARON G. HARDOON, CSR
Official Circuit Court Reporter, III

1 THE COURT: All right. Miss Barbier, it's my
2 understanding this is your motion?

3 MS. BARBIER: It is, Your Honor.

4 THE COURT: Yes, ma'am. Happy to hear
5 from you.

6 MS. BARBIER: Good afternoon. Your
7 Honor, as you know, the court issued an order on
8 April 6th that provided for the review of the
9 documents at issue, and the -- that were the
10 subject of a motion to quash and a Rule to Show
11 Cause. The order specified that once the court
12 has determined that all the issues related to
13 relevance and privilege, Parker's defendants shall
14 have 10 business days to respond with objections
15 on the record, and that Parker's defendants shall
16 have 10 business days to file an appeal in
17 accordance with the South Carolina rules of civil
18 procedure.

19 With respect to that, Your Honor, on
20 April 29, as you know, the court had a hearing.
21 The court didn't make, during the hearing, any
22 findings related to privilege. The court didn't
23 give us a deadline for the production of a
24 privilege log, and we had no actual dialogue with
25 specific assertions of privilege with respect to

1 those documents. The court didn't give us any
2 indication of how the ruling would go, but
3 indicated that your law clerk would send an email
4 later that day.

5 We did receive an email from your law
6 clerk, Your Honor, in the late afternoon of
7 April 29th, and she related the court's position.

8 We also determined on that next -- that
9 was a Friday. We determined on that Monday
10 morning that a Form 4 order would be forthcoming.

11 And, Your Honor, as you know, the April
12 6th order governed this process and it indicated
13 we would have 10 days to appeal, and we would have
14 the ability to make objections.

15 Prior to that occurring, Mr. Tinsley
16 apparently contacted Miss Sandy Senn on Friday,
17 late afternoon, and then on that weekend asked her
18 to produce those documents prior to us having the
19 ability to move for any kind of stay or asserting
20 our right to appeal.

21 So, on May 4th, we filed an emergency
22 motion for a protective order and relaying our
23 position, which, of course, I think is well-known
24 to the court and to plaintiff's counsel, that an
25 email is not an order of the court. So Mr.

1 Tinsley obtained those documents prior to any
2 order of the court being issued.

3 We filed an emergency motion for
4 protective order asking this court to seek the
5 return of these documents, stop the review of
6 these documents, and prevent any dissemination of
7 these documents, because it's still our position
8 that the vast majority of these documents are
9 privileged.

10 Thereafter, Your Honor, last evening, we
11 filed a motion to stay this matter. We also have
12 sought in that motion an order by the court for
13 the return of these documents, for an order
14 preventing Mr. Tinsley from reviewing these
15 documents any further, from giving us information
16 related to what he's already reviewed, and to stop
17 any further review.

18 We do intend, Your Honor, to file a
19 notice of appeal. It's drafted. We intend to
20 file it this afternoon. But before we file the
21 notice of appeal we would like this court to
22 preclude and order Mr. Tinsley to return those
23 documents, to stop any review of these documents,
24 to set forth which documents he's reviewed, and to
25 stop any dissemination of these documents before a

1 higher court has an opportunity to rule on this
2 issue.

3 THE COURT: All right.

4 MS. BARBIER: That is the basis for our
5 motion, Your Honor. I have a copy of the motion
6 to stay pending appeal, if Your Honor doesn't have
7 a copy of it yet.

8 THE COURT: I'm okay.

9 MS. BARBIER: I'm happy to hand that up,
10 if the court --

11 THE COURT: I'm okay.

12 MS. BARBIER: Okay.

13 THE COURT: All right. So let me give
14 you my procedural history: April 6th, we had the
15 additional hearing to discuss the discovery,
16 obviously, that you-all were seeking to quash, and
17 Mr. Tinsley had filed a Rule to Show Cause on, and
18 so I said that I would take all the documents
19 under review and I would take a look at them and I
20 would make a determination as to what would be
21 relevant and what would be discoverable. And so I
22 did that in pretty quick order. In about four to
23 five days, we got it taken care of. And I took a
24 look at -- I think -- I can't remember what I told
25 you-all. A little over five to 6000 documents.

1 But I was confused and I wanted to have
2 some clarification. So I asked everyone to come
3 on the 29th to ensure I was making the appropriate
4 decision in this, and so met again on the 29th at
5 my direction, and I asked a bunch of questions of
6 yourself and of Mr. Tinsley so I could get better
7 clarification as to what I needed to do as to
8 these documents themselves.

9 So later on, on that day, during that
10 hearing, the plaintiff -- I mean the defendants
11 took the position that nothing in those documents
12 were going to help Mr. Tinsley anyway. And so I
13 took that to mean that it doesn't matter really
14 what's in them. If Mr. Tinsley is not going to be
15 able to move his case forward with those
16 documents, why shouldn't he have them all.

17 What I was trying to prevent is what
18 we're doing today, which is the back and forth.
19 Because what you just indicated Miss Barbier is
20 one hundred percent correct. You are going to
21 claim that 98 percent of that is all privileged,
22 and I'm going to have to go line by line by line
23 and an order of yours, or on behalf of a motion of
24 yours to go and say this is why it's not
25 privileged, this is why it's not privileged, and

1 we're going to take up 14 hours of the courts time
2 to do exactly what I've already done, which is to
3 give Mr. Tinsley everything.

4 If it moves his case forward, great. If
5 it doesn't, as you indicated in your last
6 argument, which was nothing in those documents are
7 going to help him out anyway, then what's the
8 point in not giving it to him, so I gave it to
9 him.

10 MS. BARBIER: Well, Your Honor, I never
11 said there's no point in not giving it to him.

12 THE COURT: No. Your exact quote was,
13 "Nothing in those documents is going to assist
14 Mr. Tinsley's case."

15 MS. BARBIER: That is correct. That does
16 speak to whether the documents are privileged.

17 THE COURT: I understand that. But my
18 point is that, I determined that the information
19 wasn't privileged. And so if you want to appeal
20 that -- I don't know how you're going to because
21 it's a discovery issue -- but if you want to
22 appeal that, you can appeal that.

23 Now, let's get to the point to where we
24 can talk to Mr. Tinsley about what he wants to do
25 about the documents that he's already received

1 from -- I believe you got them from Senator Senn,
2 correct, Mr. Tinsley?

3 MR. TINSLEY: From her client, actually,
4 Your Honor.

5 THE COURT: Go it.

6 MR. TINSLEY: Miss Donahue emailed me the
7 documents.

8 THE COURT: So you have the documents
9 pertaining to what Miss Donahue produced to
10 Mr. Parker; is that correct?

11 MR. TINSLEY: I believe so, Your Honor.

12 THE COURT: And have you taken a look at
13 any of those? Have you just reviewed any of them?

14 MR. TINSLEY: No, sir, I reviewed them.

15 THE COURT: Okay. And how many pages
16 were in that production?

17 MR. TINSLEY: It's hard to tell. About
18 6,000.

19 THE COURT: That's what I think.

20 MR. TINSLEY: Because I think there's one
21 big file, and then they also produced it in parts,
22 so there's overlap. But about 6,000.

23 THE COURT: That's what we -- between
24 that hearing, that's what I indicated, I thought
25 it was 6,000 pages, because there was two files

1 that we had to review.

2 MR. TINSLEY: Yes, sir.

3 THE COURT: And then the only other
4 remaining was the videos and the pictures,
5 correct? Did you receive that?

6 MR. TINSLEY: I have not.

7 THE COURT: Do we have that?

8 LAW CLERK: We have that.

9 THE COURT: All right. We still have
10 that.

11 MR. TINSLEY: Let me clarify. I have not
12 received anything from Sara Capelli or the inquiry
13 agency, the other third party that was subject to
14 my Rule to Show Cause, Capelli. There is one
15 Dropbox link where there are two videos of Paul
16 Murdaugh. But I don't think --

17 THE COURT: That's all.

18 MR. TINSLEY: That's it.

19 (Conversation between law clerk and Judge
20 Price.)

21 THE COURT: I'm trying to figure out what
22 you had.

23 Okay. All right. So what is your
24 position as to their motion, Mr. Tinsley?

25 MR. TINSLEY: Well, Judge, I think it's

1 frivolous, and I think it's too late. I didn't
2 realize that Sandy Senn was not copied on the
3 email on that Friday afternoon. I forwarded it
4 and I filed this email correspondence for the
5 record. I forwarded it to Miss Senn saying I'm
6 happy to come get it. I didn't necessarily know
7 that I was going to get an email link Sunday
8 morning. On Sunday morning, I went and looked at
9 it. I looked at it on Sunday. I looked at it on
10 Monday. They don't send a letter to Miss Senn
11 until 10:00 p.m. almost on Monday night.

12 So it wasn't an emergency on Friday. It
13 wasn't an emergency on Saturday or Sunday, or even
14 all day on Monday, and so I looked at it. It's
15 clear. You raised this on the 29th, that you had
16 a suspicion that they had done this, copied
17 lawyers on these documents to raise this issue, to
18 try to keep secret what it is that they've done.
19 I don't think there's any question about that,
20 Your Honor. And I think that also should weigh
21 into this interlocutory appeal, which I think
22 they're clearly going to take. But it is just
23 that, it's interlocutory.

24 THE COURT: I understand. All right.

25 Well, as to those documents, obviously,

1 the cat's out of the bag. I mean, I can't stuff
2 that mash potato bag into the bag. I mean, it's
3 already out.

4 So as to any other production of
5 documents, I'll withhold at this point in time and
6 give you your opportunity to appeal.

7 Unfortunately, at this point in time,
8 it's really just a moot processes to have you-all
9 begin a privilege as to the documents that he's
10 already received.

11 But, at this point in time, I will
12 withhold whatever remaining portions of the
13 discovery he has not seen and has not been privy
14 to at this point in time until pending the appeal.
15 All right?

16 MS. BARBIER: Thank you, Your Honor. I'd
17 also like you to order him not to disseminate the
18 documents.

19 THE COURT: I don't think he has any
20 intention of disseminating them. I trust
21 Mr. Tinsley.

22 MS. BARBIER: Okay. And I'd like you to
23 order him to not further review them or to provide
24 copies to anybody else.

25 THE COURT: Just don't disseminate them.

1 Fair enough?

2 MR. TINSLEY: That's fine.

3 THE COURT: All right. Well, thank
4 you-all very much. If you-all need something
5 else, just let us know.

6 MR. TINSLEY: Thank you, Your Honor.

7 (The hearing was concluded.)

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1 CERTIFICATE OF REPORTER

2
3 I, SHARON G. HARDOON, Official Circuit
4 Court Reporter, III for the State of South Carolina at
5 Large, do hereby certify that the foregoing is a true,
6 accurate and complete Transcript of Record of the
7 proceedings had and evidence introduced in the hearing
8 of the captioned case, relative to appeal, in General
9 Sessions for Hampton County, South Carolina.

10
11 I do further certify that I am neither kin,
12 counsel, nor interest to any party hereto.

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May 16, 2022



Sharon G. Hardoon, CSR
Official Circuit Court Reporter, III

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

EXHIBIT B

MARCH 15, 2023 E-MAIL

From: Moore, Mark C.
Sent: Wednesday, March 15, 2023 1:57 PM
To: Price, Bentley Law Clerk (Haley Kiser)
Cc: Ricard, Rhett D.; McWilliams, Susan P.; Mark Tinsley; Laine Gooding; Tabor Vaux; John M. Grantland; Drew Radeker; Taylor Smith; Sarah Larabee; nedtupper@tgdcpa.com; Price, Bentley Secretary (Tamara Walters); Deborah Barbier; angela@goodingandgooding.com; jlyles@murphygrantland.com; Ricard, Rhett D.
Subject: RE: Beach, et al. v Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPDocuments.FID4872016]

Ms. Kiser:

I apologize for the delay in responding—I just got back into Columbia after a trip to New Haven.

We also apologize for any delay in getting back to the Court following the February hearing. We understood from Judge Price that the Court was going to allow us to review the materials submitted to the Court by Mr. Vaux, compared them to the Bates-numbered documents on the Laurens Group privilege log and then brief the privilege issues related to those specific documents, said brief to be provided to the Court *in camera* as it was to discuss potentially privileged documents.

Mr. Ricard subsequently reached out to Mr. Vaux for an electronic set of the five batches of documents presented to the Court at the beginning of the hearing and Mr. Vaux ultimately sent us six batches of documents, not five. In reviewing those documents, we discovered some twenty-five pages of Sara Capelli/Inquiry Agency documents and we are sending Mr. Tinsley and Mr. Vaux a letter today expressing our concerns with respect to those specific documents.

We have prepared a lengthy brief of some 44 pages analyzing the documents submitted to the Court and to us by Mr. Vaux with detailed privilege arguments as to those documents. Per our understanding of the Court's

request to us at the last hearing, we believe that our brief should be submitted to the Court ex parte (without copies to the other parties) for the Court's *in camera* review prior to the Court scheduling a second *in camera*, *ex parte* hearing.

Please let us know if we have the Court's permission to submit our brief ex parte. If so, we will be prepared to submit it to the Court tomorrow. I have removed Judge Price's direct email from this chain based on his earlier instructions to leave him off emails from the parties.

Best,

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.

From: Price, Bentley Law Clerk (Haley Kiser) <bpricelc@sccourts.org>

Sent: Wednesday, March 15, 2023 11:28 AM

To: Moore, Mark C. <MMoore@nexsenpruet.com>

Cc: Ricard, Rhett D. <RRicard@nexsenpruet.com>; McWilliams, Susan P. <SMcWilliams@nexsenpruet.com>; Mark Tinsley <mark@goodingandgooding.com>; Laine Gooding <laine@goodingandgooding.com>; Tabor Vaux <tabor.vaux@vmblawfirm.com>; John M. Grantland <jgrantland@murphygrantland.com>; Drew Radeker <Drew@harrisonfirm.com>; Taylor Smith <Taylor@harrisonfirm.com>; Sarah Larabee <sarah@harrisonfirm.com>; nedtupper@tgdcpa.com; Price, Bentley Secretary (Tamara Walters) <bpricesc@sccourts.org>; Deborah Barbier <dbb@deborahbarbier.com>; angela@goodingandgooding.com; jlyles@murphygrantland.com; Price, Bentley <bpricej@sccourts.org>

Subject: RE: Beach, et al. v Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPDocuments.FID4872016]

{EXTERNAL EMAIL}

Good morning, all,

I am following up from our hearing held on February 16. My records indicate that we are still waiting on updated list of bates numbers related to the documents specified by Mr. Vaux during the hearing. Please provide those to the Court as soon as possible as we need to provide an update to the Supreme Court about this matter.

Thank you,

Haley Kiser

Law Clerk
The Honorable Bentley Price
100 Broad Street, Suite 432
Charleston, South Carolina 29401
Phone: (843) 958-4450
Fax: (843) 958-5095

From: Price, Bentley Law Clerk (Haley Kiser)
Sent: Tuesday, February 14, 2023 2:40 PM
To: 'Moore, Mark C.' <MMoore@nexsenpruet.com>
Cc: Ricard, Rhett D. <RRicard@nexsenpruet.com>; McWilliams, Susan P. <SMcWilliams@nexsenpruet.com>; Mark Tinsley <mark@goodingandgooding.com>; Laine Gooding <laine@goodingandgooding.com>; Tabor Vaux <tabor.vaux@vmbllawfirm.com>; John M. Grantland <jgrantland@murphygrantland.com>; Drew Radeker <Drew@harrisonfirm.com>; Taylor Smith <Taylor@harrisonfirm.com>; Sarah Larabee <sarah@harrisonfirm.com>; nedtupper@tgdcpa.com; Price, Bentley Secretary (Tamara Walters) <bpricesc@sccourts.org>; Deborah Barbier <dbb@deborahbarbier.com>; angela@goodingandgooding.com; jlyles@murphygrantland.com
Subject: RE: Beach, et al. v Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPDocuments.FID4872016]

Good afternoon,

Thank you for confirming your attendance. Mr. Tinsley may be present, but the Court may excuse him from certain portions of the hearing that need to be conducted ex parte. Please let me know if there are any questions or concerns.

Thank you,

Haley Kiser

Law Clerk
The Honorable Bentley Price
100 Broad Street, Suite 432
Charleston, South Carolina 29401
Phone: (843) 958-4450
Fax: (843) 958-5095

From: Moore, Mark C. <MMoore@nexsenpruet.com>
Sent: Tuesday, February 14, 2023 2:19 PM
To: Price, Bentley Law Clerk (Haley Kiser) <bpricelc@sccourts.org>
Cc: Ricard, Rhett D. <RRicard@nexsenpruet.com>; McWilliams, Susan P. <SMcWilliams@nexsenpruet.com>; Mark Tinsley <mark@goodingandgooding.com>; Laine Gooding <laine@goodingandgooding.com>; Tabor Vaux <tabor.vaux@vmlawfirm.com>; John M. Grantland <jgrantland@murphygrantland.com>; Drew Radeker <Drew@harrisonfirm.com>; Taylor Smith <Taylor@harrisonfirm.com>; Sarah Larabee <sarah@harrisonfirm.com>; nedtupper@tgdcpa.com; Price, Bentley Secretary (Tamara Walters) <bpricesc@sccourts.org>; Deborah Barbier <dbb@deborahbarbier.com>; angela@goodingandgooding.com; jlyles@murphygrantland.com
Subject: RE: Beach, et al. v Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPDocuments.FID4872016]

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments.

Ms. Kiser:

Thank you. Counsel for Parker's will be present and will be prepared to defend our privileged information in a manner consistent with the Supreme Court's Order in this case and applicable precedent.

As noted in our responses to your initial email inquiring about our availability for this hearing and as argued in our Motion to Limit Participation filed on February 1, 2023, the hearing is properly noticed in your initial email as an *ex parte, in camera* hearing. We do not believe that Mr. Tinsley or any lawyers for the other parties have a right to be present at an *ex parte in camera* hearing—nor does any other party or the public have a right of access to any portion of the hearing where potentially privileged materials are discussed. We further believe that the only way the Court can comply with the Supreme Court's order is to conduct this hearing *ex parte* and *in camera*. We therefore respectfully submit that at least a substantial portion of the hearing must be sealed by the Court.

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.

From: Price, Bentley Law Clerk (Haley Kiser) <bpricelc@sccourts.org>

Sent: Friday, February 10, 2023 11:49 AM

To: Moore, Mark C. <MMoore@nexsenpruet.com>

Cc: Ricard, Rhett D. <RRicard@nexsenpruet.com>; McWilliams, Susan P. <SMcWilliams@nexsenpruet.com>; Mark Tinsley <mark@goodingandgooding.com>; Laine Gooding <laine@goodingandgooding.com>; Tabor Vaux <tabor.vaux@vmbllawfirm.com>; John M. Grantland <jgrantland@murphygrantland.com>; Drew Radeker <Drew@harrisonfirm.com>; Taylor Smith <Taylor@harrisonfirm.com>; Sarah Larabee <sarah@harrisonfirm.com>; nedtupper@tgdcpa.com; Price, Bentley Secretary (Tamara Walters) <bpricesc@sccourts.org>; Deborah Barbier <dbb@deborahbarbier.com>; angela@goodingandgooding.com; jlyles@murphygrantland.com

Subject: RE: Beach, et al. v Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPDocuments.FID4872016]

{EXTERNAL EMAIL}

Good morning, all,

Just a reminder that this hearing will take place Thursday, February 16, at 1pm, in-person in Charleston County.

Thank you,

Haley Kiser

Law Clerk

The Honorable Bentley Price

100 Broad Street, Suite 432

Charleston, South Carolina 29401

Phone: (843) 958-4450
Fax: (843) 958-5095

From: Price, Bentley <bpricej@sccourts.org>
Sent: Tuesday, January 24, 2023 11:18 AM
To: Moore, Mark C. <MMoore@nexsenpruet.com>; Price, Bentley Law Clerk (Haley Kiser) <bpricelc@sccourts.org>
Cc: Ricard, Rhett D. <RRicard@nexsenpruet.com>; McWilliams, Susan P. <SMcWilliams@nexsenpruet.com>; Mark Tinsley <mark@goodingandgooding.com>; Laine Gooding <laine@goodingandgooding.com>; Tabor Vaux <tabor.vaux@vmlawfirm.com>; John M. Grantland <jgrantland@murphygrantland.com>; Drew Radeker <Drew@harrisonfirm.com>; Taylor Smith <Taylor@harrisonfirm.com>; Sarah Larabee <sarah@harrisonfirm.com>; nedtupper@tgdcpa.com; Price, Bentley Secretary (Tamara Walters) <bpricesc@sccourts.org>; Deborah Barbier <dbb@deborahbarbier.com>; angela@goodingandgooding.com; jlyles@murphygrantland.com
Subject: RE: Beach, et al. v Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPDocuments.FID4872016]

All,

I was recently contacted by the Supreme Court indicating they were awaiting my decision. Obviously I was unaware of this. The hearing will be on Thursday February 16 at 1:00. I obviously didn't send them this issue originally but in light of this must move forward swiftly. If there are any future concerns or comments please remove me personally from the chain. Thank you in advance.

Bentley

From: Moore, Mark C. <MMoore@nexsenpruet.com>
Sent: Monday, January 23, 2023 3:16 PM
To: Price, Bentley Law Clerk (Haley Kiser) <bpricelc@sccourts.org>
Cc: Ricard, Rhett D. <RRicard@nexsenpruet.com>; McWilliams, Susan P. <SMcWilliams@nexsenpruet.com>; Mark Tinsley <mark@goodingandgooding.com>; Laine Gooding <laine@goodingandgooding.com>; Tabor Vaux <tabor.vaux@vmlawfirm.com>; John M. Grantland <jgrantland@murphygrantland.com>; Drew Radeker <Drew@harrisonfirm.com>; Taylor Smith <Taylor@harrisonfirm.com>; Sarah Larabee <sarah@harrisonfirm.com>; nedtupper@tgdcpa.com; Price, Bentley Secretary (Tamara Walters) <bpricesc@sccourts.org>; Deborah Barbier <dbb@deborahbarbier.com>; Price, Bentley <bpricej@sccourts.org>; angela@goodingandgooding.com; jlyles@murphygrantland.com
Subject: Re: Beach, et al. v Gregory M. Parker, et al; Case No. 2021-CP-25-00392 [IWOV-NPDocuments.FID4872016]

*** **EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments.

Haley:

I have long-standing plans to be in Washington DC on February 15-17, 2023 meeting with a client and co-counsel in connection with an ongoing, significant and aging federal case. I would request that we schedule this hearing for a different date given that conflict. In addition, I assume that only counsel for Parkers will be present at this in camera, ex parte hearing with the Court.

Best,

Mark Moore

Sent from my iPhone

On Jan 23, 2023, at 3:08 PM, Price, Bentley Law Clerk (Haley Kiser) <bpricelc@sccourts.org> wrote:

{EXTERNAL EMAIL}

Good afternoon, all,

The Court should complete its review of the privilege log and discovery materials this week. We would like to go ahead and schedule the requested *ex parte, in camera* hearing with Parker's Defendants during the week of February 13, which is Judge Price's next common pleas term. Judge Price will be available that week on Thursday, February 16, at 1pm. Please confirm this date/time works for those who need to be present.

Thank you,

Haley Kiser

Law Clerk

The Honorable Bentley Price

100 Broad Street, Suite 432

Charleston, South Carolina 29401

Phone: (843) 958-4450

Fax: (843) 958-5095

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

EXHIBIT C

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.

Table with 2 columns: 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.

Table with 2 columns: PLACE OF DEPOSITION, DATE AND TIME, AM

[X] 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

Table with 2 columns: PLACE (Richardson, Thomas, Haltiwanger, Moore & Lewis 1730 Jackson Street, Barnwell, SC 29812), DATE AND TIME: April 20, 2023 at 10:00 AM

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

Table with 2 columns: PREMISES, DATE AND TIME, AM

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.

Signature of Mark C. Moore, Date 04/04/2023, Print Name Mark C. Moore

Attorney/Issuing Officer's Signature, 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
Pro Se Litigant's Name, Address and Telephone Number :

Date

Print Name

ELECTRONICALLY FILED - 2023 May 31 4:17 PM - HAMPTON - COMMON PLEAS - CASE#2021CP2500392

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.

SUBPOENA REQUESTS

1. Produce any and all documents obtained from February 1, 2019, until the present related to *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 the following individuals or entities:
 - a. Wesley Donehue,
 - b. The Laurens Group,
 - c. Push Digital LLC,
 - d. Christina Purves,
 - e. Sara Capelli, and
 - f. Inquiry Agency LLC.

2. Produce any and all documents obtained from February 1, 2019, until the present related to *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, generated by the following individuals or entities:
 - a. Wesley Donehue,
 - b. The Laurens Group,
 - c. Push Digital LLC,
 - d. Christina Purves,
 - e. Sara Capelli, and
 - f. Inquiry Agency LLC.

AFFIDAVIT OF SERVICE

State of South Carolina

County of Hampton

Common Pleas Court

Case Number: 2021-CP-25-00392 Court Date: 4/20/2023 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, GOODING & GOODING PA, 265 BARNWELL HWY., ALLENDALE, SC 29810.

I, STEVE HARRIS, being duly sworn, depose and say that on the 10th day of April, 2023 at 10:10 am, I:

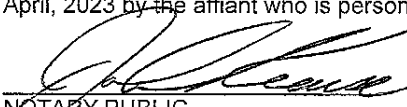
Served the within named with a true copy of the SUBPOENA DUCES TECUM, ATTACHMENT A, with date and hour endorsed hereon by me, leaving the documents with ANN DIAMOND, LEGAL ASST. at the above listed address.

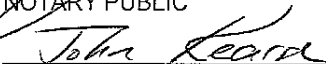
Military Status: Based upon inquiry of party served, defendant is not in the military service of The United States of America.

Description of Person Served: Age: 65, Sex: F, Race/Skin Color: White, Height: 5'4", Weight: 150, Hair: Grey, Glasses: Y

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

Subscribed and Sworn to before me on the 10th day of April, 2023 by the affiant who is personally known to me.


NOTARY PUBLIC


PRINTED SIGNATURE

Commission Expires:

June 3 2023


STEVE HARRIS
Process Server

PROCESS SERVICE, INC.
P.O. Box 20097
Charleston, SC 29413
(843) 577-2355

Our Job Serial Number: LEX-2023000791

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

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: 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.

Table with 2 columns: 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.

Table with 2 columns: PLACE OF DEPOSITION, DATE AND TIME, AM

[X] 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

Table with 2 columns: PLACE (Tupper Grimsley Dean & Canaday PA, 611 Bay St, Beaufort, SC 29902), DATE AND TIME: April 20, 2023 at 10:00 AM

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

Table with 2 columns: PREMISES, DATE AND TIME, AM

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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.

Handwritten signature of Mark C. Moore

04/04/2023

Mark C. Moore

Attorney/Issuing Officer's Signature
Indicate if Attorney for Plaintiff or Defendant
Attorney's Address and Telephone Number :

Date

Print Name

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

Clerk of Court/Issuing Officer's Signature
Pro Se Litigant's Name, Address and Telephone Number :

Date

Print Name

ELECTRONICALLY FILED - 2023 May 31 4:17 PM - HAMPTON - COMMON PLEAS - CASE#2021CP2500392

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

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(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.

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(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

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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.

SUBPOENA REQUESTS

1. Produce any and all documents obtained from February 1, 2019, until the present related to *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 the following individuals or entities:
 - a. Wesley Donehue,
 - b. The Laurens Group,
 - c. Push Digital LLC,
 - d. Christina Purves,
 - e. Sara Capelli, and
 - f. Inquiry Agency LLC.

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 - a. Wesley Donehue,
 - b. The Laurens Group,
 - c. Push Digital LLC,
 - d. Christina Purves,
 - e. Sara Capelli, and
 - f. Inquiry Agency LLC.

AFFIDAVIT OF SERVICE

State of South Carolina

County of Hampton

Common Pleas Court

Case Number: 2021-CP-25-00392 Court Date: 4/20/2023 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 7th day of April, 2023 at 9:17 am, I:

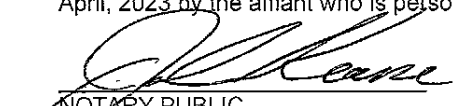
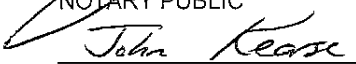
PERSONALLY served by delivering a true copy of the SUBPOENA DUCES TECUM, ATTACHMENT A to: TABOR VAUX at the address of: VAUX MARSCHER BERGLIND PA, 1251 MAY RIVER RD., BLUFFTON, SC 29910.

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: 40, Sex: M, Race/Skin Color: White, Height: 5'7", Weight: 160, Hair: Light Brown, Glasses: N

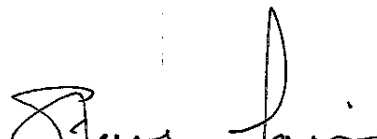
I am over eighteen and have no interest in the above action.

Subscribed and Sworn to before me on the 10th day of April, 2023 by the affiant who is personally known to me.


NOTARY PUBLIC

PRINTED SIGNATURE

Commission Expires:

June 3, 2021


STEVE HARRIS
Process Server

PROCESS SERVICE, INC.
P.O. Box 20097
Charleston, SC 29413
(843) 577-2355

Our Job Serial Number: LEX-2023000792



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

EXHIBIT D

OBJECTIONS LETTER FROM PLAINTIFFS' COUNSEL

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

April 20, 2023

VIA Email and Mail

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

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

Dear Mark:

I am in receipt of your subpoenas dated April 4, 2023 to Mark Tinsley and myself for information in our possession that was generated by or provided by certain individuals who previously worked on behalf of Greg Parker. I write this letter in response and request confirmation as to whether your subpoenas are the result of a clerical error. Please review the South Carolina Rules of Civil Procedure and, specifically, Rule 34. Your subpoenas are clearly improper, an abuse of process, and an attempt to circumvent the discovery process. The leading treatises agree that although Rule 45 may apply to both parties and nonparties, resort to Rule 45 should not be allowed when it circumvents the requirements and protections of Rule 34 for the production of documents belonging to a party. *Layman v. Junior Players Golf Acad., Inc.*, 314 F.R.D. 379, 384 (D.S.C. 2016).

It is clear that the only intent of your subpoenas is to be abusive and burdensome because you are already in possession of the materials requested and they are the subject of several hearings before the Court and an appeal before the South Carolina Supreme Court. Furthermore, we are unable to discern a difference between the requests in the current subpoenas and requests in previous subpoenas or by Court instructions. If you are aware of other materials or if we have misunderstood your requests, then please clarify immediately.

As the boat wreck case inches closer and closer to trial, Mr. Parker's lawyers, including you, continue your efforts to make Mark Tinsley and myself out as witnesses instead of advocates for our clients. Your subpoenas, if not issued in error, are therefore nothing more than a furtherance of this agenda.

Pursuant to Rule 45, SCRCP, we object to the subpoenas. 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

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on a person subject to the subpoena.

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

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

EXHIBIT E

JUDGE YOUNG MEMORANDUM



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

Roger M. Young, Sr.
Judge

Charleston County Judicial Center
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MEMORANDUM

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

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..." SCRC, Rule 33(a). If there are objections to interrogatories or requests for interrogatories or requests for production, "the reasons for objection shall be stated..." SCRC, 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.¹ *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.²

¹ ¹ *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 & Apfel, 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'rs, 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.”).

² *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.³ 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.

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.”).

³ *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. SCRCF, 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..." SCRCF, 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, SCRCF.