STATE OF SOUTH CAROLINA COUNTY OF HAMPTON	)	IN THE COURT OF COMMON PLEAS FOR THE FOURTEENTH JUDICIAL CIRCUIT CIVIL ACTION NO.: 2021-CP-25-00298
Michael "Tony" Satterfield, Individually and in his Capacity as the Personal Representative of the Estate of Gloria Satterfield and Brian Harriott, Plaintiffs, vs. Richard Alexander "Alex" Murdaugh, Chad Westendorf, Palmetto State Bank, Corey Fleming, and Moss, Kuhn & Fleming, P.A. Defendants.	)	**MEMORANDUM OF LAW IN OPPOSITION TO MOTION FOR RELIEF UNDER RULE 60(b) AND MOTION FOR SANCTIONS**

MEMORANDUM

At its heart, the Defendant's Motion for Relief from Judgment Pursuant to South Carolina Civil Procedure Rule 60(b) (the "Motion") asks one simple question: May I have a mulligan? More aptly described, through their Motion, Team Murdaugh (which includes Murdaugh and his counsel) have stumbled late on the judicial first tee with a small bucket of balls and with the apparent attempt to fire shots until they finally hit the fairway. Obviously, Murdaugh is not a golfer. Neither are his lawyers. There are no mulligans. Like a spoiled child, the Motion is overindulged and undisciplined. Murdaugh's argument seems to be, "Because I committed fraud on the court in the underlying cases, I am entitled to be relieved of my confessed judgment now." By this Memorandum, the Plaintiffs will expose the many whiffs, slices, tops, blocks, chunks, hooks and duffs that have so needlessly wasted this Court's time and have unnecessarily caused the further victimization of the Satterfield family, thus entitling the Plaintiffs to sanctions against

both Murdaugh and his legal counsel in order to punish their conduct and deter such similar abuses of the Plaintiffs and the legal system going forward.

1. **Whiff**. One cannot point to their own fraud as a basis for relief under Rule 60.

"Whether to grant or deny a motion under [Rule] 60(b) is within the sound discretion of the judge." *Coleman v. Dunlap*, 306 S.C. at 491, 494, 413 S.E.2d 15,17; *Perry v. Heirs at L. of Gadsden*, 357 S.C. 42, 48, 590 S.E.2d 502, 505 (Ct. App. 2003) ("Rule 60(b)(5) is based on the historical power of a court of **equity** to modify its decree in light of subsequent conditions.'" (quoting *Mr. G v. Mrs. G*, 320 S.C. 305, 311, 465 S.E.2d 101, 107 (Ct. App. 1995))); *id.* at 49, 590 S.E.2d at 505. Emphasis Added. While Murdaugh seeks equity from the Court, he has not discharged equity; therefore, he is foreclosed from the relief he desires. *See First Union Nat'l Bank of S.C. v. Soden*, 333 S.C. 554, 568, 511 S.E.2d 372, 379 (Ct. App. 1998) ("The doctrine of unclean hands precludes a plaintiff from recovering inequity if he acted unfairly in a matter that is the subject of the litigation to the prejudice of the defendant."); *Emery v. Smith*, 361 S.C. 207, 220, 603 S.E.2d 598, 605 (Ct. App. 2004) ("He who comes into equity must come with clean hands. It is far more than a mere banality. It is a self-imposed ordinance that closes the door of the court of equity to one tainted with inequitableness or bad faith relative to the matter in which he seeks relief." (quoting *Precision Instrument Mfg. Co. v. Auto. Maint. Mach. Co.*, 324 U.S. 806, 814, 65 S. Ct. 993, 89 L. Ed. 1381, 1945 Dec. Comm'r Pat. 582 (1945))). To put the matter bluntly, whose hands could be less clean than Alex Murdaugh's?

Even according to his own Motion, Murdaugh cites as a basis for seeking equitable relief under Rule 60 that he has lied and misled his insurers and the Court:[1] "That Mr. Murdaugh lied

[1] That is, if Murdaugh's latest "truth" is – well – true. Of course, it is not to be unnoticed that in neither in the Amended Answer in the Nautilus action or in the Motion has Murdaugh's newfound truth been given under oath, by affidavit or by Verified Petition. Instead, we are asked to accept the "new truth" of a demonstrated serial and pathological liar without a single shred of evidence other than his broken word to support his contentions.

about the dogs is undeniably obvious from the record now available, made even more apparent by Mr. Murdaugh's lengthy testimony at his recent criminal trial wherein he admitted an unfortunate years-long pattern of drug-induced theft and dishonesty." Motion, p. 22. To paraphrase, Murdaugh urges the Court he should be believed now when he says that he lied earlier about how Gloria Satterfield was injured.[2] Through a twisted application of Murdaugh logic, the point Murdaugh seems to make is that if he lied about the dogs, then the insurance companies never should have been paid him the money that he stole, as a result of which he should be relieved of the Confession of Judgment ("Confession") that he gave the Satterfield boys some years later because there should never have been a Gloria Satterfield wrongful death claim and recovery in the first place – and, of course, Murdaugh gets to keep the stolen money. Or something to that effect. And this, Murdaugh suggests, should entitle him to seek equitable relief from the Court under Rule 60.[3]

The Motion suggests that it raises novel issues. It does not. It raises nonsensical issues. If the Motion is novel, it is only novel in the sense that it is the by-product of a disgraced former attorney with the time, depravity of mind and sheer balderdash to have concocted it. Moreover, the Motion is nothing more than a continuation of the mockery that Murdaugh has made of his prior profession and the administration of justice itself. The fact that Murdaugh's latest abuse of the system and continued victimization of his victims is facilitated by his current counsel, subjects all of them to sanctions as addressed below. But before digressing, the Motion is fatally defective and factually flawed in too many additional particulars to ignore. As to this point, however, the inescapable conclusion is that Murdaugh's admitted fraud does not entitle him to equitable relief.

2. **Slice**. Murdaugh has and continues to play "fast and loose" with the Courts which precludes him from the relief he now seeks.

[2] As discussed *infra* Murdaugh committed a fraud on three courts by his latest alleged about face, including Judge Hall, Judge Newman in the murder trial and the South Carolina Supreme Court when it disbarred him.
[3] Even here, Murdaugh only serves up a half a plate of his alleged truth because he never shares what became of the money he stole.

The doctrine of judicial estoppel evolved to protect the truth-seeking function of the judicial process by punishing those who seek to misrepresent facts to gain advantage. *Hayne Fed. Credit Union v. Bailey*, 327 S.C. 242, 251, 489 S.E.2d 472, 477 (1997); see also *John S. Clark Co. v. Faggert & Frieden, P.C.*, 65 F.3d 26, 29 (4th Cir. 1995) (stating goal of judicial estoppel "is to prevent a party from playing 'fast and loose' with the courts, and to protect the essential integrity of the process."). As explicitly embraced by our supreme court, "judicial estoppel precludes a party from adopting a position in conflict with one earlier taken in the same or related litigation." *Hayne*, 327 S.C. at 251, 489 S.E.2d at 477. "When a party has formally asserted a certain version of the facts in litigation, he cannot later change those facts when the initial version no longer suits him." *Id.* The application of judicial estoppel "is an equitable concept, depending on the facts and circumstances of each individual case, [and] application of the doctrine is discretionary." *Carrigg v. Cannon*, 347 S.C. 75, 83-84, 552 S.E.2d 767, 772 (Ct. App. 2001) (quoting *Hawkins v. Bruno Yacht Sales, Inc.*, 342 S.C. 352, 368, 536 S.E.2d 698, 706 (Ct. App. 2000), *cert. granted* Sept. 27, 2001)). Generally, for the doctrine to apply, courts look to the following factors:

> First, a party's later position must be clearly inconsistent with its earlier position. Second, . . . whether the party has succeeded in persuading a court to accept that party's earlier position, so that judicial acceptance of an inconsistent position in a later proceeding would create 'the perception that either the first or the second court was misled, ...' A third consideration is whether the party seeking to assert an inconsistent position would derive an unfair advantage or impose an unfair detriment on the opposing party if not estopped. *N.H. v. Me.,* 532 U.S. 742, 750-51 (2001) (citations omitted); *see Lowery v. Stovall,* 92 F.3d 219 (4th Cir. 1996). "Judicial acceptance means only that the [*359] first court has adopted the position urged by the party . . . as part of a final disposition." *Lowery,* 92 F.3d at 224-25. The above outlined approach emphasizes the potential for harm to the judicial process.

This point is twisted even by Murdaugh standards, but in his Rule 60 Motion, Murdaugh takes an inconsistent position with positions taken in other litigation by lying to this Court about

having lied about the dogs. What the Motion advances in part as a basis for relief is that: "Mr. Murdaugh lied about his own liability for Ms. Satterfield's death to fraudulently obtain insurance proceeds to perpetuate his severe opioid drug habit…" Motion p. 22. But did he really? Yes, in an interview with an adjuster, it is "true" that Murdaugh explained that Gloria's fall was caused by his dogs (a fact that appears supported by both Maggie and Paul at the time), but Murdaugh never advanced this position to the Court that approved the Nautilus settlement and he actually negotiated for a release that stipulated that he had no liability.[4]

In the Petition for Approval of Settlement in the matter of "In RE: Gloria Satterfield [Action number omitted]," ("Petition") the factual predicate for the claim and the Nautilus settlement provided:

> "On or about February 2, 2018, Gloria Satterfield received injuries after falling down the front stairs of a Colleton County, South Carolina residence owned by Richard Alexander Murdaugh and Margaret Murdaugh. Decedent Gloria Satterfield subsequently died." Petition, at para. 3, a copy of which is attached hereto as **Exhibit A**.

Omitted from the Petition was any reference to the dogs. The Petition was subsequently approved by an Order Approving Settlement ("Order"), a copy of which is attached as **Exhibit B**. The Order found in part that "[i]t appears that On or about February 2, 2018, Gloria Satterfield received injuries after falling down the front stairs of a Colleton County, South Carolina residence owned by Richard Alexander Murdaugh and Margaret Murdaugh. Decedent Gloria Satterfield subsequently died." Importantly, the Order further found:

[4] At his murder trial when he supposedly was telling the truth about his prior thefts from clients and lies to them, Murdaugh never testified that the dogs didn't cause Gloria's fall. In fact, Asst. Attorney General Creighton Waters elicited testimony from Tony Satterfield that Murdaugh had confessed judgment to the family for $4.3 Million. No one from Team Murdaugh objected or took the position that the Confession was a legal nullity. Obviously, they thought it beneficial at the time to have the jury believe that Murdaugh had made restitution to the Satterfields when they accepted the testimony without challenge.

> "It is denied by the parties to be released [ie. Murdaugh] that the injuries and subsequent death suffered by the Decedent were the result of any negligence or reckless conduct of any released party."

Like the Petition, the Order contained no finding that the dogs played any role in Gloria's fall or subsequent death. The Order did, however, authorize Chad Westendorf, as the Personal Representative of the Estate of Gloria Satterfield, to execute such documents as would affect a full release in favor of Richard Alexander Murdaugh. Specifically, the Order authorized Mr. Westendorf to execute the Release attached hereto as **Exhibit C** (the "Release"). Without referencing dogs at all, the Release recited that "Gloria Satterfield received injuries on or about February 2, 2018, after falling down the front stairs of a Colleton County, South Carolina residence owned by Richard Alexander Murdaugh and Margaret Murdaugh" and that Gloria "subsequently died." Importantly, the Release stipulated that Murdaugh **had no liability whatsoever** in Gloria's death:

> "It is further understood and agreed that the payment of the above said amounts is not to be construed as an admission of liability on the part of the persons released, **liability being expressed denied**." Emphasis Added.

So, assuming it matters (and it does not), why did Nautilus pay the Gloria Satterfield claim? The reasons are many-fold as are described in the Second Comprehensive Report ("Report") which evaluated the Satterfield claim and was prepared for Nautilus by it outside legal counsel, a copy of which is attached hereto as **Exhibit D**. The reasons Nautilus settled the Satterfield claim include in no particular order:

a. Based on an interview with Paul Murdaugh, Paul reported that in the presence of his father, he heard Alex ask Gloria what happened and that Gloria said "something" about

the dogs. Paul also reported having been awoken by the dogs and coming outside to find Gloria at the bottom of the steps.[5] Report, p. 7-8.

b. Based on an interview with Maggie Murdaugh, Maggie described that all four dogs were loose on the property, that she was awoken by the dogs barking, that she went outside to find Gloria at the foot of the steps and that the "dogs were walking near Satterfield." Maggie added that the dog named Bourbon was "just horrible," was attention seeking and was known to "get under people's feet." When asked what she thought happened, Maggie stated her belief that the dogs got in Gloria's way as she came up the steps. Report, p. 6-7.

c. Alex Murdaugh was not present at the time of the fall and arrived later. Alex claims that Gloria told him that the dogs had tripped her – a fact that appears corroborated by Paul.[6] Report, 5-6.

d. "Venue of any filed lawsuit [was] a key issue," as the suit would likely be in Colleton or Hampton Counties which are located in a "plaintiff-friendly circuit." Report, p. 10.

e. "The Fourteenth Circuit has two resident judges, Judge Perry Buckner and Judge Carmen Mullen. These judges know Mr. Murdaugh and Mr. Fleming well." Report, p. 10.

The "real" reason Nautilus settled the claim is that it made an economic decision that the risk of litigating with Murdaugh on his home turf was too great. As insurance companies do on a daily basis, Nautilus had the right and the free agency to deny the claim and to tell the claimants

[5] Tragically, Paul Murdaugh is no longer with us, a matter that will be addressed under spoliation of evidence below.
[6] One would have to question the value (or risk) of Alex's statement. He was not even present and did not witness the fall or any interaction between Gloria and the dogs. Furthermore, the fact that he had a financial interest in the outcome of any claim would likely preclude the admissibility of any statement made by Gloria under the dead man's rule.

what they tell others every day – "prove it." Nautilus chose otherwise. In doing so, they had conducted their own independent investigation as to the circumstances surrounding Gloria's fall, they were assisted by outside counsel and they negotiated for a resolution that included the stipulation that Murdaugh had done nothing wrong.[7] As the Orders approving the two settlements comprising 4.3 million dollars has never been challenged, it is the law of the case that Murdaugh had no liability in the fall that caused the injuries and death of Gloria Satterfield. The matter was resolved for business or other insurance company internal reasons, unrelated to any recently self-admitted fraud.

Again, Murdaugh has misled this Court that the reason the claim was paid was as a result of having misled the prior Court in approving the Nautilus settlement. One can only imagine that when someone has manufactured so many mistruths, it becomes difficult to keep it all straight, but the reality is neither the Petitions, the Orders, nor the Releases mentions dogs as it relates to Gloria's fall and expressly provide that Murdaugh had no liability whatsoever. This is playing fast and loose – and is out of bounds.

But this is not the only manner in which Murdaugh has and continues to play fast and loose with the Courts. As it relates to the Confession itself that Murdaugh describes in the present Motion as a legal nullity, he has at least twice acknowledged the Confession in other Courts as being valid. Related to Murdaugh's criminal indictments for having stolen millions of dollars from the Satterfield family, Murdaugh had a bond reduction hearing before the Honorable Alison Lee on January 18, 2022. The negotiation of the material terms of the Confession of Judgment took

[7] Not to be dense, but it has not been our experience that insurance companies pay out millions of dollars in claims without first performing an exhaustive investigation, obtaining opinions from their counsel to determine whether there is coverage under an applicable policy and making calculated business decisions to settle that may or may not have any bearing on actual liability.

place in advance of a bond reduction hearing[8] and it was important to Murdaugh to execute the Confession prior to the bond reduction hearing for two important reasons: first, he wanted to be able to report to the Court that he had settled his disputes with the Satterfields; second, he wanted to quell further opposition from Bland Richter, LLP, to his request for a lower bond.[9] During the bond reduction hearing, Murdaugh and his legal team reported to the Court that they had resolved their disputes with the Satterfield family and that Murdaugh would be signing the Confession. Much to Murdaugh's dissatisfaction, Judge Lee did not lower his bond. Clearly, when it served Murdaugh's purposes to advance the validity of the Confession to a Court, he did so. To be certain, the Court accepted the representation that Murdaugh has made matters right with the Satterfields, as it went without challenge. One may suppose that Murdaugh is now dissatisfied that he didn't get the value that he sought at the time by telling the Court that he would be signing the Confession, but his perceived lack of value is no basis for a take-back, a do-over or a mulligan. This is precisely the type of "fast and loose" conduct that judicial estoppel seeks to quell.

But there is more. On May 11 2022, Nautilus Insurance Company sued Murdaugh and others in the United States District Court seeking to recover the $3.8 Million Dollars that it paid beneficially to Cory Fleming on behalf of the Satterfield Estate and which was subsequently diverted. To be clear, the Satterfield family has never received the first dollar of Nautilus money. In its Amended Complaint, Nautilus alleged that "Murdaugh filed a proposed confession of judgment on March 24, 2022" referencing the Confession that is the subject of this Motion. Amended Complaint, p. 18. On May 1, 2023, Murdaugh filed his Answer to the Amended

[8] A complete time line of the negotiation of the Confession is set forth below in discussing other reasons why the current motion fails.

[9] Bond had initially been denied by the Honorable Clifton Newman. Subsequently, on December 13, 2021, the Honorable Alison Lee set bond at $7,000,000.00. During the bond hearing, Dick Harpootlian told the Court on Murdaugh's behalf that Murdaugh had agreed pay the Satterfield family $4.3 Million. This attorney admission is binding on Murdaugh.

Complaint admitting the above allegation, thus stipulating to the validity of the Confession. Murdaugh did not take the position that the Confession was a nullity in the Federal Action. Just 15 days later after stipulating to the validity of the Confession in Federal Court, Murdaugh filed the present Motion seeking to invalidate the Confession. Perhaps this filing will remind Murdaugh to amend his Federal pleading to deny the validity of the Confession if he at least wants to be consistent in his lies.

When it served Murdaugh to parade the Confession before Courts as a sign of his magnanimousness and contrition, he did so.[10] When Nautilus said in effect, "thanks for admitting you stole the money we paid to you beneficially for the Satterfields, we would like it back now," he reversed course and now seeks to disavow the same Confession. The goal of judicial estoppel "is to prevent a party from playing 'fast and loose' with the courts, and to protect the essential integrity of the process." Who has played faster or looser with the Courts than Murdaugh?

3. **Top**. The fact that Murdaugh's legal team had "bigger fish to fry" does not create a basis for relief.

"When the confession of judgment was agreed to, Mr. Murdaugh's counsel knew that he had stolen the money. They were unaware, however, of the details of the claim and underlying settlement, and in the run-up to Mr. Murdaugh's murder trial, they had no reason to delve into that issue. **They had bigger fish to fry**." Motion, p. 23, Emphasis Added. Simply put: WOW!![11] In

[10] Again, by his silence and failure to tell Judge Newman and the murder court jury that the confession of judgement should be negated because "I lied about the dogs causing Gloria's fall", this is just another example of Murdaugh trying to have it both ways as a result of his recent epiphany that he will now tell the truth.

[11] While it is possible that the attorneys for Mr. Murdaugh did not realize the downstream damage that could be caused by their counseling Mr. Murdaugh to give the $4.3 Million Confession to the Satterfields, the fact that they were admittedly out-maneuvered on the legal chess board does not create a basis for relief. It is now clear (and should have been clear at the time) that the South Carolina Bar and the South Carolina Supreme Court wanted to act summarily to separate Murdaugh from the practice of law, but they needed something clear and unequivocal – something like the Confession in which Murdaugh admitted to stealing millions. After the filed Confession of received, the undersigned was duty bound to provide a copy to the South Carolina Office of Disciplinary Counsel and Murdaugh was disbarred within days of filing the Confession.

unpacking this one, it is probably best to create a timeline alternative to the one advanced by Team Murdaugh in order to dispel the notion that somehow Murdaugh's unwitting counsel got snuck-up on by those dastardly lawyers on the other side. As the timeline will show, not only is it untrue that Team Murdaugh had bigger fish to fry, **MURDAUGH HAD NO OTHER FISH TO FRY** at the time of the Confession.

a. September 3, 2021: Murdaugh was forced to resign from his family law firm after his partners said he had stolen millions of dollars from the firm and its clients.

b. September 4, 2021: Murdaugh called 911 to report that he had been shot in the head while trying to change a tire.

c. September 15, 2021: Murdaugh was sued by the Satterfield family for stealing settlement proceeds and SLED announced it was opening an investigation.

d. September 16, 2021: Murdaugh was arrested and charged with fraud and conspiracy in the fake roadside shooting scheme. He was quietly released on a personal recognizance bond and went to a drug detox center in Florida.

e. October 14, 2021: Murdaugh was arrested at a Florida drug detox center and charged with stealing millions from the Satterfield family.

f. October 19, 2021: Murdaugh was denied bond by the Honorable Clifton Newman. **NOTE**: Negotiations for a settlement of the Satterfields' civil claims against Murdaugh began at or near the same time. While the Satterfields had recovered in excess of $7.5 Million from other Defendants, the suit continued against Murdaugh.

g. December 7, 2021: Via email, Eric Bland and Jim Griffin negotiated the amount of the proposed Confession. Eric Bland initially proposed $5,000,000.00. Griffin responded with proposed math indicating an amount of $4,191,200.00, to which

Bland replied, "Jim symbolically it's got to be for $4,305,000.00." A copy of the email chain is attached as **Exhibit E**.[12]

h. December 9, 2021: Ronnie Richter emailed Harpootlian and Griffin regarding the mechanics of having Murdaugh confess a judgment to the Satterfields:

- "I just got off the phone with Amy Hill [the Court appointed Receiver] who raises a very legitimate concern. Because Alex is locked down, he technically has not authority or ability to confess judgment – that is, unless the Court grants him the right.

  In discussing it with Amy, it seems our best approach is to have the Receiver petition Judge Hall for relief from the injunction to permit Alex to confess. The Receiver supports the settlement we are proposing. To appease all other judgment creditors, the proposal would be to include language to the following effect: 'The Receiver requests relief from the injunction to permit Mr. Murdaugh to execute the proposed Confession, while reserving for a later date arguments regarding the validity and/or priority of other judgment creditors." A copy of the email is attached as **Exhibit F**. [13]

i. December 9, 2021: In response to the email above, Harpootlian replied: "**Fine with me**."[14] Emphasis Added.[15]

j. December 13, 2021: The Honorable Alison Lee set bond for Murdaugh's financial indictments at $7 Million. During the bond hearing, Dick Hartpootlian told the Court that Murdaugh agreed to pay the Satterfields $4.3 Million.

[12] In the same email, Eric Bland makes the comment that "It's monopoly money," that the Motion cites as a basis for relief. That statement was taken completely out of context. Bland did not make that statement because a Confession would have been worthless. What Bland was referring to was that he doubted that assets could be located to satisfy the judgment. Still, judgements are good for ten years, and you never really know what fortune may come to a judgment debtor. Bland also expected that the Receivers would find assets or the government would find them to satisfy Murdaugh's victims and judgement creditors. More on this later in the Memorandum.

[13] It is clear that the Confession that is the subject matter of this Motion was designed from the outset so as NOT to create any advantage over other potential judgment creditors, a point that will be explored more fully later in this Memorandum.

[14] As it relates to the "run up to the murder trial" that allegedly pre-occupied Team Murdaugh during this time, Murdaugh was not indicted for the murders of his wife and son until nearly 8 months later on July 14, 2022.

[15] It should also be noted that Murdaugh signed an earlier version of the confession of judgement in favor of the Satterfields in December 2021, but that the Receiver would not approve it because it did not contain language that to protect other Murdaugh financial victims and the Receiver did not want the Satterfields to obtain preferential judgment creditor rights.

k. December 13, 2021: Following the bond hearing, Eric Bland emailed Amy Hill: "Dick and I informed Judge Lee this morning that Alex would be giving and my clients would accept a $4,305,000.00 Confession of Judgment in the pending civil suit. Are you drafting the motion on behalf of the Receiver for the court to accept his agreement? Please let us know how John wants to proceed. Once accepted we have an agreement as to the resolution of the pending motions in the civil case. Thanks. Eric." A copy of the email is attached as **Exhibit G**.

l. January 2, 2022: Eric Bland emailed Harpootlian and Griffin:

- "Happy New Year. I got a call from Amy Hill today who said that she needs either a covenant or settlement agreement to submit to the court with the confession of judgment that we agreed upon. Dick I recall you telling me that you were going to sign the confession of judgment and you would hold it in your file. Did Alex ever signed [sic] the confession of judgment?

  You also said that you were going to make a few changes to the covenant. I've attached it again can you do it so that we can get it over to Amy Hill this week for filing. There are motions scheduled in our case in a couple of weeks and I wanna be able to let Judge Price know that we resolved everything. Thank you Eric." A copy of the email is attached as **Exhibit H.**[16]

m. February 9, 2021: In an email to Amy Hill and John Lay with copies to Harpootlian and Griffin, Eric Bland forwarded the proposed covenant and confession, but explained that the covenant was "not final as Jim has to tweak it." The email went on to make clear that with regard to the Confession, the Satterfields would become just "one of the victim creditors who will have no priority over other victims." A copy of the email is attached as **Exhibit I.**

[16] In his Motion, Murdaugh seems to argue that there was something nefarious about resolving the motions in the underlying case. In reality, the Confession was the center piece of a settlement with Murdaugh of the Satterfield civil claims. Like virtually every settlement, it resoles all matters between litigants.

n. February 9, 2021: In an email thread between the attorneys for Satterfield and Murdaugh:

- Jim Griffin wrote at 3:21 PM with regard to the Murdaugh Covenant and Confession of Judgment: "Here are my tweaks. In redline and clean versions."

- Ronnie Richter replied at 3:32 PM: "Jim. I would only further tweak it to say that noting contained 'shall be construed as a waiver of Murdaugh's right to seek set-off or credit …' He can seek it. We don't stipulate as to his entitled to get it, but that's a fight for another day." The point was how to address the fact that the Satterfields had recovered against other parties in the event that the Receiver came into possession of funds and Murdaugh wanted to advance the argument that in considering the Satterfields' right to further payment, Murdaugh should receive a credit or set-off for the other recoveries.

- Jim Griffin replied at 3:38 PM: "Here is the final, agreed upon Covenant. We agree to the earlier Confession of Judgment document."

- Eric Bland replied at 3:44: "Jim. First thank you for getting the covenant today. Second, will you notify Judge Price that the hearings on February do not need to go forward and that they should be continued until Judge Hall either approves or denies the covenant and confession." A copy of the email thread is attached as **Exhibit J.**

o. March 1-7, 2022: A lengthy email exchange occurred between attorneys for Satterfield, Murdaugh and the Receivers as follows:

- March 1, 2022, at 5:47 PM, Amy Hill wrote: "All. Please see the attached confession of judgment with Ronnie and my changes. We are working on the motion to the Court and hope to get that out tomorrow. We will contact the Court and let them know it is coming. Hopefully, no need for a hearing."

- March 1, 2022, at 6:31 PM, Eric Bland wrote: "Jim. We have spent the last three weeks negotiating this. Ok? Eric"

- March 7, 2022, at 7:37 AM, Jim Griffin wrote: "Eric. I hate to upset the applecart, but there needs to be a provision in here qualifying that the allocation will be determined by 'the Receivership Court, or other court of competent judisdiction.' Also there should be a provision stating that by entering into this confession the Debtor is not consenting

to appointment of a Receiver and does not waive his right to challenge the same."

- THE CONVERSATION CONTINUED and a complete copy of the email chain is attached hereto as **Exhibit K**.

- March 7, 2022: The email chain culminates with Amy Hill asking Jim Griffin "what was the reasoning for Alex to offer up the confession of judgment," and Jim Griffin responding: "To end the litigation, and avoid the unnecessary litigation expense to the Satterfields."

p. March 15, 2022: Eric Bland emailed the Honorable Bentley Price, copying Harpootlian, Griffin and the Receiver, stating in part: "My understanding is the confession of judgment is going to be submitted tomorrow to Judge Hall for his review and/or approval. As such, if approved, all of the motions between the Plaintiffs and Mr. Murdaugh will be resolved and dismissed. As such, we jointly ask that you once again continue the pending motions scheduled for March 16th until next month if you are so disposed." A copy of the email is attached hereto as **Exhibit L.**

q. May 12, 2022: Judge Hall approved the Order permitting Alex Murdaugh to enter into the Confession with the Satterfields.

r. May 31, 2022: The approved $4.3 Million Confession was filed with the clerk's office. [17]

s. July 12, 2021: Alex Murdaugh was disbarred after the South Carolina Supreme Court received a copy of the filed Confession.[18]

[17] The suggestion that Team Satterfield snuck up on Team Murdaugh at a time when their attention was diverted by a "run up" to a murder trial to get the Confession is absurd. Perhaps counsel simply forgot about their six months of substantive negotiation in the language to be include in the Judgement. In any event, there is no basis to blame the Satterfields' counsel for excellent legal representation.

[18] To our knowledge, Murdaugh has not notified the South Carolina Supreme Court that he allegedly lied about the dogs causing Gloria's fall and that he gave the Confession in error and that it should not have been used as a basis to disbar him.

t. July 14, 2022: Alex Murdaugh is indicted on two counts of murder for the killing of his wife and son. Arguably, this is the earliest date when the "run up" to the murder trials could have begun. At this point, Murdaugh finally had bigger fish to fry.

u. July 20, 2022: Murdaugh pleaded not guilty to the murders of Maggie and Paul Murdaugh and requested a speedy trial.

v. January 23, 2023: Murdaugh's murder trial began.

w. March 2, 2023: Murdaugh was found guilty of killing his wife and son.

x. May 16, 2023: The present Motion is filed.

In essence, Murdaugh seems to contend by claiming his legal counsel "had bigger fish to fry" that he should be relieved from his judgment due to the errors of his legal counsel. While styled as a motion for relief under Rule 60(b)(3) and/or 60(b)(4), this argument is more akin to relief under Rule 60(b)(1) as a result of "mistake, inadvertence, surprise, or excusable neglect." As such, the question posed is really twofold: did Murdaugh's legal team make mistakes, and if so, does it entitle Murdaugh to relief from his judgment. As to the first part of the inquiry, it is difficult to say that a mistake was made in a negotiation that spanned over six months with agreements that were materially negotiated and modified by Murdaugh's esteemed legal team and which were ultimately presented to a Court for approval with their consent. This is especially true in light of the fact that the false assertion of "frying fish" has been completely dispelled.

An excellent discussion of whether attorney negligence entitles a party to relief from judgment under Rule 60 is found in in the Ninth Circuit. The Ninth Circuit has repeatedly "refus[ed] to provide relief on account of excusable neglect to . . . attorney-based mistakes of law." *Latshaw v. Trainer Wortham & Co.*, 452 F.3d 1097, 1101 (9th Cir. 2006); *see also Engleson*

v. Burlington N. R. Co., 972 F.2d 1038, 1043 (9th Cir. 1992) ("Neither ignorance nor carelessness on the part of the litigant or his attorney provide grounds for relief under Rule 60(b)(1)"); *Allmerica Fin. Life Ins. & Annuity Co. v. Llewellyn*, 139 F.3d 664, 666 (9th Cir. 1997) ("attorney error is insufficient grounds for relief under both Rule 60(b)(1) and (6)"). This is because "[a]s a general rule, parties are bound by the actions of their lawyers, and alleged attorney malpractice does not usually provide a basis to set aside a judgment pursuant to Rule 60(b)(1)." *Casey v. Albertson's Inc.*, 362 F.3d 1254, 1260 (9th Cir. 2004) (rejecting the plaintiff's request for relief under Rule 60(b)(1) where the plaintiff asserted that her first attorney committed malpractice and her second attorney was inexperienced); *see also Link v. Wabash R. Co.*, 370 U.S. 626, 633, 82 S. Ct. 1386, 8 L. Ed. 2d 734 (1962) (explaining that a party who "voluntarily chose this attorney as his representative in the action . . . cannot now avoid the consequences of the acts or omissions of this freely selected agent. Any other notion would be wholly inconsistent with our system of representative litigation, in which each party is deemed bound by the acts of his lawyer-agent and is considered to have notice of all facts, notice of which can be charged upon the attorney") (internal quotation omitted). Thus, the Ninth Circuit has found:

> Rule 60(b)(1) is not intended to remedy the effects of a litigation decision that a party later comes to regret through subsequently-gained knowledge that corrects the erroneous legal advice of counsel. For purposes of subsection (b)(1), parties should be bound by and accountable for the deliberate actions of themselves and their chosen counsel. This includes not only an innocent, albeit careless or negligent, attorney mistake, but also intentional attorney misconduct. Such mistakes are more appropriately addressed through malpractice claims.

Latshaw, 452 F.3d at 1101; *see also id*. at 1101-02 ("A party will not be released from a poor litigation decision made because of inaccurate information or advice, even if provided by an attorney").

Applying this principle, courts have declined to vacate judgments under Rule 60(b)(1) where the attorney committed an error of law. For example, in *Latshaw*, the Ninth Circuit found Rule 60(b)(1) relief inapplicable where the plaintiff entered into a Rule 68 offer of judgment, relying on her counsel's erroneous legal advice that she could be held liable for costs and attorney's fees, rather than only costs. 452 F.3d at 1101-02. In *Engleson*, the Ninth Circuit found that the attorney's ignorance of the statute governing labor law disputes between railway workers and employers did not constitute excusable neglect. 972 F.2d at 1044; *see also Reynolds v. Lomas*, 554 Fed. Appx. 548, 549 (9th Cir. 2014) (finding district court did not abuse its discretion where it found that Rule 60(b)(1) did not apply to the prior attorney's alleged failure to make the correct legal arguments). Likewise, in [*9] *Allmerica*, the Ninth Circuit found that the counsel's failure to plead an affirmative defense of waiver did not provide a basis for relief under Rule 60(b)(1). 139 F.3d at 665-66. In short, "the case law consistently teaches that out-and-out lawyer blunders-- the type of action or inaction that leads to successful malpractice suits by the injured client--do not qualify as 'mistake' or 'excusable neglect' within the meaning of Rule 60(b)(1)." *McCurry ex rel. Turner v. Adventist Health Sys./Sunbelt, Inc.*, 298 F.3d 586, 595 (6th Cir. 2002) (internal quotation omitted), *cited with approval by Latshaw*, 452 F.3d at 1101.

In short, Murdaugh's "fish fry" does not create a basis for relief from his judgment.

4. **Chunk**. There is no technical defect in the Confession that entitles Murdaugh to relief.

Next on the tee, Murdaugh contends that because of a technical defect in the Confession that he and his legal team negotiated for over six months, asked a Court to approve and paraded before other Courts in other settings beneficial to Murdaugh, he is now entitled to relief from his Confession. Before addressing the "defects" of which Murdaugh now complains, it is important first to look back to the genesis of the Confession and its terms.

As discussed above, the Confession was the end-product of months of negotiation between counsel for Murdaugh, counsel for the Satterfields and the Court-appointed Receivers. The receivership itself, however, was established in a separate action, in the matter of Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gregory M. Parker, Inc., et al, Action Number 2019-CP-25-00111 (the "Beach Case"). Because Alex Murdaugh's assets had come under the authority of a receivership in the Beach Case, the parties to the Satterfield matter agreed that the Receiver in the Beach Case would need to ask the Court's permission to allow Murdaugh to execute the Confession (as it had the potential to impact his assets). Permission in the Beach Case was then requested by the parties to the Satterfield case, Murdaugh included. On May 16, 2022, the Honorable Daniel Dewitt Hall entered an Order in the Beach Case granting Murdaugh the permission to execute the Confession that Murdaugh had requested to sign. A copy of the Order is attached hereto as **Exhibit M**.

With reference to the Confession that Murdaugh was granted permission to sign, it contains a few important provisions that were conveniently omitted in the Motion:

- "Debtor **admits** liability to the Judgment Creditors for **the claims asserted against him** in their complaint Civil Action No.: 2021-CP-25-00298." Confession, para. 2. Emphasis Added.

- "Debtor hereby affirms and represents that this Judgment is **legally binding and enforceable** against him in any state throughout the United States of America and **he will not contest its validity or enforcement** so long the enforcement is pursuant to the terms set forth in this Confession of Judgment and Stipulation." Confession, para. 10. Emphasis Added.

- "Debtor has agreed to enter into this Judgment and any transfers contemplated herein and any transfers made pursuant to this Judgment are intended by him … to be a **contemporaneous exchange for new value** given to the parties identified herein, and they are, in fact, such a contemporaneous exchange. … The **transfers** contemplated and required by this Judgment **are made for the settlement** of a disputed present claim, and not an antecedent obligation, **and are given in**

exchange for a release of further alleged liability." Confession, para. 12. Emphasis Added.

- "The undersigned agrees and affirms that **he will not challenge or contest in any way his capacity or authority** to enter and execute this Confession of Judgment and Stipulation." Confession, para. 15. Emphasis Added.

- "Debtor has been represented by his own legal counsel … and enters into this agreement **freely, under his own volition, without duress or coercion**." Confession, para. 16. Emphasis Added.

First, the Confession itself bars Murdaugh's present Motion and does so by his own stipulation that he will not "contest its validity or enforcement."[19] Of course, the Motion attempts to side-step this bar by pointing vaguely to the same tired dialogue that Murdaugh's opioid use impeded his judgment at the time of the Confession (ie. the drugs made me do it). But here again, by his own stipulation Murdaugh agreed that he entered into the Confession freely and voluntarily and that he would not contest in any way his capacity or authority to have done so. Furthermore, with reference to the timeline provided above, Murdaugh was arrested in September, 2021, and was released on September 16, 2021, at which time he went directly to a drug detox center in Florida. He remained in a detox center until October 14, 2021, at which time he was remanded into the custody of the great State of South Carolina, where he has remained ever since. In his remanded bond hearing in front of Judge Lee from the Alvin S. Glenn Detention Center in 2021 (five months before he gave the Confessed Judgement), Murdaugh told Judge Lee on video that his head has never been "clearer" and that he is "off of drugs", is exercising and is healthy. Those must have been some powerful drugs to have rendered Murdaugh incapacitated for the 10 months

[19] As it was Judge Hall's Order in the Beach Case that authorized the execution of the Confession in the first place, this Court lacks jurisdiction to review the Order. While the Motion should not have been filed at all, it was filed in the wrong Court and the Receivers should have been named and have an opportunity to weigh in on the issues raised. Of course, Murdaugh could always refile in the proper Court, but he'd be outside of the time constraints of Rule 60.

or so when he entered rehab (and presumably stopped taking drugs) and the time he finally executed the Confession on May 27, 2022. But we digress. Back to the "technical" defects.

The Motion cites South Carolina Code 15-35-360 as the basis for asserting the alleged fatally defective flaws in the Confession, which flaws render the Confession void under Rule 60(b)(4). The logic here is muddled at best. Rule 60(b)(4) provides the court may relieve a party or his legal representative from a final judgment, order, or proceeding if the judgment is void. "The definition of 'void' under the rule only encompasses judgments from courts which failed to provide proper due process, or judgments from courts which lacked subject matter jurisdiction or personal jurisdiction." *McDaniel v. U.S. Fid. & Guar. Co.,* 324 S.C. 639, 644, 478 S.E.2d 868, 871 (Ct. App. 1996) (citations omitted). There is no assertion of a lack of due process or a lack of jurisdiction here.

In order to "cure" the obvious defect in his logic, Murdaugh pivots to argue (as best we can tell) that because of certain alleged defects, the parties (Murdaugh included) acted ultra vires so as to render the Confession void. To condense the thought, Murdaugh contends that when he asked Judge Hall for permission to execute the Confession and when by Order Judge Hall said that "Richard A. Murdaugh is permitted to sign the Proposed Confession of Judgment attached to this Order," there was a defect in the Confession that was so pernicious as to nullify even Judge Hall's permission to sign it. As preposterous as this sounds, let's review the "defects."

"Defect" Number One: "Here, the confession at issue states no facts whatsoever regarding the basis for Mr. Murdaugh's liability." To the contrary, the Confession states that Murdaugh admits liability to the Judgment Creditors for the "claims asserted against him in their Complaint." This is known as incorporation by reference. The "claims asserted against [Murdaugh] in [the] Complaint" are factually rich – and more importantly – are admitted in toto through the

Confession. Murdaugh's Motion mocks the very purpose of 15-35-360, which is to protect against sham judgments that would only serve to frustrate or prejudice other legitimate creditors. Of course, this too is yet another flag that Murdaugh flies in his Motion – that he is really trying to champion the rights of his other victims, the fallacy of which is discussed in a section to follow.

"Defect" Number Two: The Confession must show the "sum confessed … does not exceed the liability." In the Complaint which was incorporated and admitted to in the Confession as being 100% accurate, the Satterfields described in rich factual detail how Murdaugh devised a scheme to use his position as a lawyer to steal $4,305,000.00 and to leave his clients who had just lost their mother with nothing – not one red dime. The Complaint included claims for breach of fiduciary duty and legal malpractice and included a prayer for punitive damages. While Team Murdaugh has decided on their own after the Satterfields recovered in excess of $7.5 Million that the Satterfields had been paid enough (which importantly was PRIOR to the Confession), Murdaugh stipulated in the Confession to the liability for the claims asserted in the Complaint that he was subject to a punitive award and further agreed by the language of the Confession itself that it was "**given in exchange for a release of further alleged liability**." By settlement, Murdaugh received that value in the form of a release of the very same liability. There is no defect here.

As for the idea of defects generally being a basis to set aside confessed judgments, our Supreme Court has not required strict statutory compliance in upholding judgments. As it relates to the statutory "requirement" of an affidavit or attestation of the debtor, our Court held in *Linda McCo. v. Shore*, 390 S.C. 543, 703 S.E.2d 499, (2010):

> Petitioners contend the lack of an affidavit from Respondent setting forth the exact amount due under the judgment renders the [**504] judgment void.[6] However, the language pertaining to the affidavit in the judgment is permissive and not mandatory. It states an affidavit setting forth the correct amount of the judgment "may" be submitted by Respondent. The judgment complies with the statutory requirements of section 15-35-360 [***9] because it was made in writing, signed

> by Petitioners, and verified by their oath. Moreover, the lack of an affidavit does not render the judgment void under Rule 60, SCRCP, because the absence of an affidavit has no bearing on the subject matter jurisdiction of the court. Hence, because the judgment satisfies section 15-35-360 and the submission of an affidavit was permissive and not mandatory, the court of appeals correctly held the judgment was not invalid for lack of an affidavit.

Here, the movant does not even contend that there was a defect that somehow deprived the Court of the subject matter jurisdiction to have permitted the Confession. Moreover, to the extent that any "defect" exists (which is denied), it is a defect equally of Murdaugh's own creation. It is the rare litigant that would point to his own error as a basis to escape his admitted liability – but this is Alex Murdaugh.

5. **Hook**. Murdaugh's newfound concern for his other victims is not a basis for relief.

"The confessed judgment only harms Mr. Murdaugh's other victims," Motion, p. 23., such that "[i]f the confessed judgment remains in place, those victims will have their restitution substantially reduced." Motion, p. 24. While perhaps one should be encouraged that from the comfort of his jail cell confessional, Murdaugh professes a desire to atone for his sins and to protect those who he has victimized, we find his Motion in this regard lacking in sincerity.

First, it is at best the product of a VERY SHAKY memory to suggest to the Court that the Confession works a disadvantage to other victims and at its worst an outright misrepresentation to the Court. As shown through the timeline and email communications above, it was discussed and agreed upon from the outset that if Murdaugh were to confess judgment, we would have to "[reserve] for a later date, arguments regarding the validity and/or priority of other judgment creditors." This language carried through the negotiation and execution of the Confession:

- "Debtor and Judgment Creditors agree and stipulate that this Confession of Judgment is not in any way an attempt to obtain or establish preferential rights for the payment of monies to Judgment Creditors in satisfaction of the Confession of Judgment relative to other current and future claimants and creditors of Debtor." Confession, para. 6.

The importance of this concession cannot be overstated. The Satterfields were the first financial victims of Alex Murdaugh to sue him – as such, they were first in line among financial victims and had they continued their action against him, they would have been the first to obtain a judgment against him. As it relates to judgments, first in time is first in right. The Satterfields agreed to give up their priority and to join any future creditors or judgment holders on equal footing. Not only did the Satterfields agree to this concession, they have lived up to it. On three separate occasions, the Receiver has sought to sell a Murdaugh asset in order to create a pool of funds for the future distribution to creditors. On three separate occasions, the Receiver has reached out to the Satterfields through their counsel to obtain a Partial Release of Judgment Lien in order to allow the sales to take place. On three separate occasions, the Satterfields have executed the Partial Releases to allow the sale of assets. Partial Release of Lien attached hereto as **Exhibits N, O and P.** Of course, these events were well-known to Murdaugh at the time he filed his Motion suggesting that if he didn't do something, the Confession would only serve to harm his other victims.

On the other hand, Murdaugh certainly knows how to work the system in order to give a judgment that creates the same inequity he suddenly seems duty bound to prevent. On September 15, 2021, the Satterfield Complaint was filed. On October 28, 2021, Randolph Murdaugh, IV, sued his brother for $46,500.00. The very next day, Alex Murdaugh confessed judgment to his brother for $90,000.00, necessitating the Receiver to file a Motion for Emergency Order Staying Enforcement of Confession of Judgment. Copies of these pleadings are attached as **Exhibit Q**. On October 29, 2021, John E. Parker, former law partner and financier to Alex Murdaugh, sued Murdaugh for $477,000.00. On November 2, 2021, Alex Murdaugh confessed judgment to his friend and former partner in the same amount, necessitating another Motion for Emergency Order

Staying Enforcement of Confession of Judgment. Copies of these pleadings are attached as **Exhibit R.** [20] This is how you cheat to the front of the line. This is how one uses a confessed judgment to enhance the standing of one creditor over the rights of others. This is NOT what transpired with regard to the Confession that is the subject of the Motion.

While not pretending to speak for all Alex Murdaugh victims, respectfully, we think you've done enough for your victims.

6. **Duff**. Pointing to "other misconduct" by the adverse party is not a basis for relief.

In a confusing rant and with a vacuum of legal authority, Team Murdaugh seems to contend here that he should be entitled to relief from his Confession because Eric Bland called him bad names on social media and/or that Nautilus should seek its money from the Satterfields and their legal counsel.[21] On November 22, 2021, Team Murdaugh filed an Emergency Motion for Gag Order and Sanctions as to Attorney Eric Bland about his alleged extra-judicial statements to the press and on television interviews.[22] As the parties negotiated to settle the case, it was known that the settlement (like all settlements) would represent a complete release of all matters. The fact that all motions would be resolved by virtue of a settlement was discussed by and between counsel throughout the settlement discussions.[23] Through the settlement agreement and the Confession, the motion (and all other motions) were made moot. Nevertheless, Team Murdaugh seeks now

[20] One may query whether these "confessions" suffer from the same fatal defects that Murdaugh claims to have identified in his Motion.

[21] It is ironic that this argument is advanced by Mr. Harpootlian who has built a career and a reputation for his bombast and use of the media. If our bar gave a career Mr. Microphone award, Mr. Harpootlian would be a run-away winner.

[22] Aside from the fact that Rule 3.6 of the South Carolina Rules of Professional Conduct grants attorneys the right to correct false public narratives advanced other litigants, it is ridiculous to posit that any comments Bland said swayed the public against Mr. Murdaugh. Bland Richter did not come on board until September 2021. Anything that Mr. Bland may have said about Mr. Murdaugh paled in comparison to what was said about Murdaugh in thousands of articles published before Mr. Bland's arrival about Mr. Murdaugh and hundreds of television stories. While a powerful voice, Bland does not have the reach of national television shows, national newspapers and other national and international media outlets. Mr. Murdaugh was the subject by the media and others of continued negative press. In fact, one would be hard-pressed to find any positive article or news piece written about Alex Murdaugh since February, 2019.

[23] Settlement discussions that Team Murdaugh has included in their motion in violation of South Carolina law.

effectively to resurrect the very matter that they agreed had been resolved in order to manufacture a non-existent basis to seek relief from the Confession and to do so, purportedly, because Mr. Bland and Team Satterfield has sought to harm the other victims and Murdaugh is now in the helping frame of mind.

In truth, the Motion really never makes the argument that connects the dots between misconduct and relief, but instead Team Murdaugh loosely cites "other misconduct" in an attempt to divert attention away from the indefensible behavior of their client and nonsensical logic of their Motion. To be clear, there has been no "other misconduct" that entitles Murdaugh to relief here.

Without explaining how it would create any right to relief from the Confession, Murdaugh's Motion reaches its crescendo in suggesting somehow that Nautilus should seek relief from the Satterfields. While the Satterfields' legal counsel would recognize the sheer ridiculousness of such an assertion, it is nonetheless upsetting to lay clients who have already been put through the legal gristmill by Alex Murdaugh. It appears the Satterfield boys are not among the victims for whom Murdaugh has a new-found sense of morality, and given the role of Tony Satterfield in standing tall during Murdaugh's criminal trial, Murdaugh acts like one who has a favor to repay. According to the Motion, "the Restatement expresses the common-sense principle that if restitution for stolen money is given to the wrong party, the actual victim has a claim on that restitution even if the source of the restitution is a third-party paying on behalf of, or because of perceived joint liability with, the thief." Motion, p. 25. To which, we would reply, "What?"

First, the Restatement stands for no such contortion. Nautilus did not make a payment to Murdaugh by mistake. Nautilus paid money in trust to Cory Fleming to fund an agreed upon settlement for the benefit of the Satterfield boys. **NONE OF THAT MONEY MADE IT TO THE SATTERFIELDS**. All of the money was stolen, misappropriated, etc. If the Motion

suggests that the money (ie. the Nautilus money) should be traced and clawed back from its ultimate recipients, perhaps there is legal support for THAT proposition. Of course, the Motion makes no accounting for those who actually received the stolen property and never suggests that Team Murdaugh's own pockets should be examined for the stolen money.[24] Wouldn't that be the straighter path? To the contrary and in a game of legal bait and switch, the Motion seems to want to put the Nautilus hounds on the Satterfield trail – but the trails never cross.

On a completely separate front from completely separate sources, the Satterfield family sued Murdaugh and others for their respective roles in the theft of their money. They made recoveries on theories ranging from malpractice, to breach of fiduciary duty, negligence and fraud. **NONE OF THE MONEY RECOVERED BY THE SATTERFIELDS IS NAUTILUS MONEY, NOR IS NAUTILUS BENEFICIALLY ENTITLED TO IT**. Thus, what the Motion advances is the theory that Murdaugh and the beneficiaries of the stolen money should be able to retain that money because the Satterfields were successful in suing them and recovering from other sources.[25] Not surprisingly, no case law is cited for this proposition. Also not surprisingly, Nautilus has never made such a claim.

7. **Block.** Murdaugh's spoliation of evidence makes it impossible to put the parties back to where they once were.

By his Motion, Murdaugh contends that he should be entitled to set aside his Confession and restore the parties to where they were before the Confession, in which case the Satterfield boys

[24] Under Team Murdaugh's argument, Counsel for Murdaugh should be included in any inquiry, if one occurs, about whether their fees were paid by Murdaugh's ill-gotten gains and theft. By way of example, it is believed that Harpootlian and Griffin were paid $500,000 to represent Paul in the DUI boating homicide charge brought in the Spring of 2019 against him. Murdaugh stole the Satterfield settlement monies in January 2019 and in May 2019. Did he pay his attorneys their requested legal fees with the Satterfield monies or other monies stolen from other PMPED clients?

[25] Each parties who paid settlement monies to the Satterfields in 2021 and in early 2022 had their own lawyers and investigators. They had the free agency if they desired to put the burden on the Satterfields to prove their claims. They chose to settle for reasons that were personal to them. Who knows, maybe it was as simple as that for business reasons they didn't want to be grouped at the defense table with the likes of Mr. Murdaugh.

can just return to their lawsuit against him. While it has to be deduced from the Motion, it appears to be Team Murdaugh's theory that in returning to their lawsuit against Murdaugh, the Satterfields would have to prove that the dogs caused Gloria's fall such that Murdaugh would have liability for her injuries and death. Nothing could be further from the truth. What the Satterfields would have to prove is that Murdaugh stole their money, a fact which he has admitted in the Confession and under oath in his criminal trial. Ah, but clever Mr. Murdaugh would contend that there never should have been any money because Murdaugh obtained it through fraud. Thus, in Murdaugh logic, he could not have stolen that which he should not have possessed.

So what is the real game here? If Murdaugh is right (and he is most certainly wrong), then the Satterfields would have to prove the manner of Gloria's death – a matter that has been made impossible by the fact that through an unprecedented act of spoliation of evidence, Murdaugh has murdered the only surviving witnesses who could have testified with regard to Gloria's fall. Based on the Report, the facts known to both Maggie and Paul at the time of Gloria's fall are preserved, but at the same time they are precluded from use as hearsay. Thus, in asking for "equitable" relief from this Court, Murdaugh's view of equity would be to: allow him to keep the stolen money (or at least not recover it from the folks he gave it to); relieve him from the Confession that he executed freely and voluntarily; make the Satterfields return to the time and expense of their prior lawsuit; and in that lawsuit tell the Satterfields that they now have to prove how Gloria died and do so without the benefit of the witnesses he has murdered. We apologize for the length of that sentence, but it is reflective of the depths of the rabbit holes that Team Murdaugh would urge upon this Court. Murdaugh's spoliation of evidence is yet another reason not to indulge his ridiculous prayer for relief from the Confession.

MOTION FOR SANCTIONS

At some point, some line somewhere has to be crossed by Murdaugh where the Court will send a strong message to him (and to his entire legal team) to stop victimizing his victims and to stop weaponizing the legal system to extract punishment. Surely, the legal Rubicon has been crossed by the filing of this Motion and anyone who facilitated its filing should be sanctioned. Rule 11, SCRCP, is a rule designed to foster attorney responsibility and to deter litigation abuse. *See Kovach v. Whitley*, 437 S.C. 261, 263-65, 878 S.E.2d 863, 864-65 (2022) (emphasizing purpose of Rule 11, SCRCP).

"Under this Rule, a party and/or the party's attorney may be sanctioned for filing a frivolous pleading, motion, or other paper, or for making frivolous arguments. *See Link v. School District of Pickens County.* 302 S.C. 1, 393 S.E.2d 176 (1990). The party and/or attorney may also be sanctioned for filing a pleading, motion, or other paper in bad faith (i.e., to cause unnecessary delay) whether or not there is good ground to support it. *See Johnson v. Dailey,* 318 S.C. 318, 457 S.E.2d 613 (1995). The sanction may include an order to pay the reasonable costs and attorney's fees incurred by the party or parties defending against the frivolous action or action brought in bad faith, a reasonable fine to be paid to the court, or a directive of a nonmonetary nature designed to deter the party or the party's attorney from bringing any future frivolous action or action in bad faith. Further, if appropriate under the facts of the case, the court may order a party and/or the party's attorney to pay a reasonable monetary penalty to the party or parties defending against the frivolous action or action brought in bad faith. Rule 11(a), SCRCP." *Runyon v. Wright*, 322 S.C. 15, 19, 471 S.E.2d 160 (1996). "While Rule 11 is evaluated by a subjective standard, the rule still may be violated with a filing that is so patently without merit that no reasonable attorney could

have a good faith belief in its propriety." *Ex parte Bon Secours-St. Francis Xavier Hosp., Inc.*, 393 S.C. 590, 598, 713 S.E.2d 624, 628 (2011).

Similarly, relief is available under the South Carolina Frivolous Civil Proceedings Sanction Act. "The South Carolina Frivolous Civil Proceedings Sanction[s] Act provides for liability for attorney fees and costs of frivolous suits." *Ex parte Gregory*, 378 S.C. at 438, 663 S.E.2d at 50. Subsection 15-36-10(A)(4)(a) of The South Carolina Frivolous Civil Proceedings Sanction[s] Act provides in part: "An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for: . . . filing a frivolous pleading, motion, or document if: . . . a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law . . . a reasonable attorney presented with the same circumstances would believe that the procurement, initiation, continuation, or defense of a civil cause was intended merely to harass or injure the other party; or . . . a reasonable attorney presented with the same circumstances would believe the pleading, motion, or document is frivolous, interposed for merely delay, or merely brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based . . . ."

Respectfully, no reasonable attorney who spent six months negotiating the settlement of a case that involved a Confession of Judgment, who then petitioned a Court to accept the settlement and to permit the execution of the Confession and then used the Confession in other judicial proceedings would wait until the eve of the one year anniversary of the Confession and point to phantom defects as a means to avoid it. Likewise, no reasonable attorney would misrepresent to a Court that the reason the Confession was executed in the first place was because they had "bigger fish to fry" and were not paying close enough attention to detail, when the fish they were

referencing (ie. the murder indictments) did not even exist at the time of the Confession. In the discharge of our Rule 11 obligation to consult, requests were made of Team Murdaugh to withdraw the present Motion in order to avoid the time and expense of this reply. These requests were unsuccessful as show through the attached email chain, **Exhibit S.**

The Satterfield boys have had enough of Alex Murdaugh. Their mother died at his home. From what is known now, it appears that by the time of their mother's funeral, Alex had already concocted a plan to monetize her death to his benefit. Alex lied to them. Alex stole from them. Even now as they try to put back the pieces of a once quiet and happy life, Alex Murdaugh is literally the hand from the grave that will not allow them peace. We pray to the Court that a sanction will issue against Team Murdaugh that will finally shake his grip. Respectfully, anything short of a sanction will serve to "sanction" his conduct.

Charleston, South Carolina
June 6, 2023

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