



South Carolina Court Administration

South Carolina Supreme Court

Columbia, South Carolina

ROSALYN W. FRIERSON

DIRECTOR

1220 SENATE STREET, SUITE 200

COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1800

FAX: (803) 734-1355

EMAIL: rfrierson@sccourts.org

MEMORANDUM

To: Clerks of Court, Registers of Deeds, Masters-In-Equity
CC: Circuit Court Judges, Family Court Judges, Summary Court Judges
From: Rosalyn W. Frierson
Subject: Fraudulent Documents
Date: October 18, 2016

In 2010, this office issued a memorandum regarding the filing of documents in your offices that are materially false or fraudulent or a sham legal process. Since the filing of these documents continues to occur, we have updated that memorandum for your information and use. We also have attached the communication from SLED accompanying the previous memorandum as a reference tool in the handling of sham or fraudulent documents that are presented for filing or court action. The communication includes examples of the common elements to assist you in identifying fraudulent documents or a sham legal process and assist court personnel in distinguishing between fraudulent documents proffered by “sovereign citizens” or tax protesters from legitimate pro se filings.

We provide the following guidance concerning the acceptance or filing of fraudulent documents.

1. Documents that are determined to be illegitimate court documents should not be accepted for filing. S.C. Code § 30-9-30(B)(1) provides statutory guidance for handling such documents. If the document bears the elements indicating a fraudulent filing (for example, alleging a fictional court

such as a federal tribal circuit court or status derived from entities not recognized by the United States) and the clerk of court or the register of deeds reasonably believes that the document is materially false or fraudulent or is a sham legal process, the clerk of court or register of deeds may refuse to accept the document for filing.

2. If a clerk of court or register of deeds refuses to accept an illegitimate document for filing, S.C. Code §30-9-30(B)(1) requires that the clerk of court or register of deeds provide the person attempting to file the document with written notice that the filing has been refused pursuant to this section of the S.C. Code. Within 30 days of written notice of such refusal, the person presenting the document may commence a suit in a state court of competent jurisdiction requiring the clerk of court or the register of deeds to accept the document for filing.

3. Section 30-9-30(B)(2) provides that a document previously accepted and filed but subsequently determined to be a fraudulent document may be removed from the public record **after** giving 30 days written notice to the person on whose behalf the document was filed. Within 30 days of written notice of the proposed removal, the person provided the notice may commence a suit in a state court of competent jurisdiction preventing the clerk of court or register of deeds from removing the document.

4. If a clerk of court or register of deeds is not clear as to whether the document is fraudulent, it should be accepted for filing and subject to review by the court.

Persons knowingly presenting documents in connection with a sham legal process may be subject to criminal prosecution, not only under the Federal Mail Fraud Statute, but also under S.C. Sham Legal Documents Statute (Section 16-17-735), and such action may amount to obstruction of justice if they purport to prevent a South Carolina court from exercising its jurisdiction.

I hope this information is helpful in screening such filings. S. C. Code Ann. § 30-9-30 is provided below for your reference.

SECTION 30-9-30. Filing of written instruments concerning real or personal property; false or fraudulent documents

(A) Except as otherwise provided by statute, each clerk of court and register of deeds in this State shall keep a record, in the office in which he files all conveyances, mortgages, judgments, liens, contracts, and papers relating to real and personal property required by statute to be kept by him, by entering in the record the names of the grantor and grantee, mortgagor and mortgagee, obligor and obligee, or other parties to the written instruments, date of filing, and nature of the instrument immediately upon its lodgment for record. The filing is notice to all persons, sufficient to put them upon inquiry of the purport of the filed instrument and the property affected by the instrument. A return address must be provided on each conveyance, mortgage, judgment, lien, contract, or other document submitted for filing with the clerk of court or register of deeds. A document may be refused for filing if it lacks a complete return address.

(B)(1) If a person presents a conveyance, mortgage, judgment, lien, contract, or other document to the clerk of court or the register of deeds for filing or recording, the clerk of court or the register

of deeds may refuse to accept the document for filing if he reasonably believes that the document is materially false or fraudulent or is a sham legal process. Within thirty days of a written notice of such refusal, the person presenting the document may commence a suit in a state court of competent jurisdiction requiring the clerk of court or the register of deeds to accept the document for filing.

(2) If the clerk of court or the register of deeds reasonably believes that a conveyance, mortgage, judgment, lien, contract, or other document is materially false or fraudulent, or is a sham legal process, the clerk of court or the register of deeds may remove the document from the public records after giving thirty days' written notice to the person on whose behalf the document was filed at the return address provided in the document. Within thirty days written notice of the proposed removal, the person providing the notice may commence a suit in a state court of competent jurisdiction preventing the clerk of court or the register of deeds from removing the document.

(3) If a clerk of court or a register of deeds improperly refuses to accept for filing or recording or improperly removes from the public records a conveyance, mortgage, judgment, lien, contract, or other document pursuant to this section, the clerk of court or register of deeds is not liable for damages, personally or in his official capacity, for the improper refusal or removal.

(4) For purposes of this subsection:

(a) "Sham legal process" means a document that is not issued lawfully and that purports to be a judgment, lien, or order of a court or appropriate government entity, or otherwise purports to assert jurisdiction over or determine the legal or equitable status, rights, duties, powers, or privileges of a person or property.

(b) "Lawfully issued" means adopted, issued, or rendered in accordance with applicable statutes, rules, regulations, and ordinances of the United States, a state, or an agency or a political subdivision of a state.