

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 23-1043

C. HOLMES,

Plaintiff - Appellant,

v.

BLUE CROSS BLUE SHIELD OF SOUTH CAROLINA, INC.; J. DOE #1
THROUGH J. DOE #X; SCOTT MCCARTHA; MS. SHIPMAN,

Defendants - Appellees.

Appeal from the United States District Court for the District of South Carolina, at
Charleston. Bruce H. Hendricks, District Judge. (2:20-cv-00004-BHH-MHC)

Submitted: October 31, 2023

Decided: November 2, 2023

Before HARRIS and QUATTLEBAUM, Circuit Judges, and KEENAN, Senior Circuit
Judge.

Affirmed by unpublished per curiam opinion.

C. Holmes, Appellant Pro Se. James B. Hood, Kathryn N. Tanner, HOOD LAW FIRM,
LLC, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

C. Holmes appeals the district court's orders (1) denying her motion to restore or reopen a civil action that she had voluntarily dismissed and to stay proceedings pending resolution of an earlier appeal, and (2) denying her motions for reconsideration of the denial of her motion to restore or reopen her case and for leave to amend her complaint. We have reviewed the record and find no reversible error.* Accordingly, we affirm the district court's orders. *Holmes v. Blue Cross Blue Shield of S.C., Inc.*, No. 2:20-cv-00004-BHH-MHC (D.S.C. Aug. 24, 2022; Dec. 13, 2022). We grant Holmes' motion to file an oversized informal brief. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

* Holmes' reliance on South Carolina procedural rules is misplaced. *See McFarland v. Wells Fargo Bank, N.A.*, 810 F.3d 273, 284 (4th Cir. 2016) ("Federal courts apply federal rules of procedure.").

FILED: February 27, 2024

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-1043
(2:20-cv-00004-BHH-MHC)

C. HOLMES

Plaintiff - Appellant

v.

BLUE CROSS BLUE SHIELD OF SOUTH CAROLINA, INC.; J. DOE #1
THROUGH J. DOE #X; SCOTT MCCARTHA; MS. SHIPMAN

Defendants - Appellees

O R D E R

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Nwamaka Anowi, Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

C. Holmes,) C/A No. 2:20-cv-0004-BHH-MHC
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Plaintiff,)
)
)
v.)
)
)
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)
)
Blue Cross Blue Shield of South Carolina,)
Inc.; John Doe #1; John Doe #2 through)
John Doe #X,)
)
)
Defendants.)
)
)
)
)

ORDER

Plaintiff, proceeding pro se, filed this action in this Court, asserting various causes of action against Defendant Blue Cross Blue Shield of SC (“BCBS”) and numerous John Doe Defendants, alleging claims pursuant to, *inter alia*, the Racketeer Influenced and Corrupt Organizations (RICO) Act and the South Carolina Unfair Trade Practices Act. ECF No. 1.

BCBS filed a Motion to Dismiss on the grounds that Plaintiff has failed to plead facts sufficient to support of a cause of action against it. ECF No. 17. While Plaintiff argues in her Response that she has pled sufficient facts to support her claims, she also asks, in the alternative, for leave to amend her Complaint. ECF No. 28.

It would not serve the interests of judicial economy to review, research, and rule on the pending Motion based on Plaintiff’s current allegations, if the Court then allows Plaintiff to amend her Complaint (which may even result in new motions to dismiss being filed based on the allegations in an Amended Complaint). Therefore, even though Plaintiff, in response to the current Motion to Dismiss, should have already filed a motion to amend and proposed amended complaint

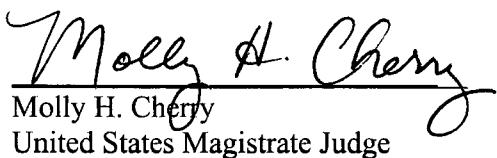
if she believes additional allegations could cure any purported defects in her current Complaint (as argued in the Motion to Dismiss), because Plaintiff is pro se and has not previously amended her pleadings, the Court will allow Plaintiff to file an Amended Complaint.

Therefore, **IT IS ORDERED** that Plaintiff shall have ten days from the date of this Order to file an Amended Complaint. Plaintiff is reminded that an amended complaint replaces the original complaint and should be complete in itself. *See Young v. City of Mount Ranier*, 238 F.3d 567, 572 (4th Cir. 2001) (“As a general rule, an amended pleading ordinarily supersedes the original and renders it of no legal effect.”) (citation and internal quotation marks omitted); *see also* 6 Charles Allan Wright et al., *Federal Practice and Procedure* § 1476 (3d ed. 2017) (“A pleading that has been amended under Rule 15(a) supersedes the pleading it modifies and remains in effect throughout the action unless it subsequently is modified. Once an amended pleading is interposed, the original pleading no longer performs any function in the case[.]”).

The pending Motion to Dismiss (ECF No. 17) is **MOOT**. If, however, Plaintiff fails to file her Amended Complaint by the deadline set forth herein, BCBS may petition the Court to restore its Motion to Dismiss (addressing the allegations as set forth in Plaintiff’s current Complaint) to the docket for decision by the Court.

IT IS SO ORDERED.

December 7, 2020
Charleston, South Carolina



Molly H. Cherry
United States Magistrate Judge

U.S. District Court
District of South Carolina (Charleston)
CIVIL DOCKET FOR CASE #: 2:20-cv-00004-BHH-MHC

Holmes v. Blue Cross Blue Shield of South Carolina, Inc. et al
Assigned to: Honorable Bruce Howe Hendricks
Referred to: Magistrate Judge Molly H Cherry
Case in other court: United States Court of Appeals for the Fourth
Circ, 23-01043
Cause: 18:1961 Racketeering (RICO) Act

Date Filed: 01/02/2020
Date Terminated: 07/21/2021
Jury Demand: Both
Nature of Suit: 470 Racketeer/Corrupt
Organization
Jurisdiction: Federal Question

Plaintiff

C. Holmes

represented by **C. Holmes**
P.O. Box 187
Sullivans Island, SC 29482
PRO SE

V.

Defendant

**Blue Cross Blue Shield of South Carolina,
Inc.**

represented by **James B Hood**
Hood Law Firm
PO Box 1508
Charleston, SC 29402
843-577-4435
Fax: 843-722-1630
Email: james.hood@hoodlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

James Whittington Clement
Walker Gressette and Linton LLC
PO Box 22167
66 Hasell Street
Charleston, SC 29413
843-727-2224
Fax: 843-727-2238
Email: clement@wglfirm.com
ATTORNEY TO BE NOTICED

Defendant

J. Doe # 1 Through J. Doe # X

Defendant

Scott McCartha

represented by **James Whittington Clement**
(See above for address)

**LEAD ATTORNEY
ATTORNEY TO BE NOTICED**

Defendant

Ms. Shipman

Date Filed	#	Docket Text
01/02/2020	<u>1</u>	COMPLAINT against Blue Cross Blue Shield of South Carolina, Inc., John Doe #1, John Doe #2, through John Doe #X (Filing fee \$ 400 receipt number SCX200016864.), filed by C. Holmes. (Attachments: # <u>1</u> Supporting Documents) (egra,) (Entered: 01/03/2020)
03/18/2020	<u>8</u>	PROPER FORM ORDER Case to be brought into proper form by 4/8/2020. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. Signed by Magistrate Judge Bristow Marchant on 03/18/2020. (cpeg,) (Entered: 03/19/2020)
03/19/2020	<u>9</u>	***DOCUMENT MAILED <u>8</u> Proper Form Order with required documents, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) Modified on 3/20/2020 to add docket text (cpeg,). (Entered: 03/19/2020)
04/30/2020	<u>11</u>	Local Rule 26.01 Answers to Interrogatories by C. Holmes. (Attachments: # <u>1</u> Envelope) (cpeg,) (Entered: 04/30/2020)
05/01/2020	<u>13</u>	ORDER authorizing service of process by clerk and directing plaintiff to notify the clerk in writing of any change of address. Signed by Magistrate Judge Bristow Marchant on 05/01/2020. (cpeg,) (Entered: 05/01/2020)
05/01/2020	<u>14</u>	Summons Issued as to Blue Cross Blue Shield of South Carolina, Inc., John Doe #1, John Doe #2, through John Doe #X. Service due by 7/30/2020 (cpeg,) (Entered: 05/01/2020)
05/04/2020	<u>15</u>	***DOCUMENT MAILED <u>14</u> Summons Issued, <u>1</u> Complaint, <u>13</u> Order Service - Non-Inmate placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) (Entered: 05/04/2020)
07/08/2020		Case Reassigned to Magistrate Judge Molly H Cherry. Magistrate Judge Bristow Marchant no longer assigned to the case. (swil,) (Entered: 07/08/2020)
07/13/2020	<u>16</u>	***DOCUMENT MAILED Clerk Notes Case Assign Public placed in U.S. Mail from Charleston Clerks Office to C Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) (Entered: 07/13/2020)
08/19/2020	<u>17</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Blue Cross Blue Shield of South Carolina, Inc.. Response to Motion due by 9/2/2020. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.Motions referred to Molly H Cherry.(Hood, James) (Entered: 08/19/2020)
08/19/2020	<u>18</u>	Local Rule 26.01 Answers to Interrogatories by Blue Cross Blue Shield of South Carolina, Inc..(Hood, James) (Entered: 08/19/2020)
08/20/2020	<u>19</u>	ROSEBORO ORDER directing clerk to forward summary judgment explanation to the opposing party and directing that party to respond in 31 days. Response due to <u>17</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by 9/21/2020. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. Signed by Magistrate Judge Molly H Cherry on 08/20/2020. (cpeg,) (Entered: 08/20/2020)

08/20/2020	<u>20</u>	***DOCUMENT MAILED <u>19</u> Roseboro Order, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) (Entered: 08/20/2020)
08/31/2020	<u>21</u>	APPEAL OF MAGISTRATE JUDGE DECISION to District Court by C. Holmes re <u>19</u> Roseboro Order. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Envelope)(cpeg,) (Entered: 09/01/2020)
08/31/2020	<u>22</u>	MOTION for DE NOVO Determination by article III Judicial Officer and Motion to hold all time limits in abeyance by C. Holmes. Response to Motion due by 9/14/2020. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Envelope)No proposed order.Motions referred to Molly H Cherry.(cpeg,) (Entered: 09/01/2020)
09/04/2020	<u>23</u>	RESPONSE in Opposition re <u>22</u> MOTION Motion for DE NOVO Determination by article III Judicial Officer and Motion to hold all time limits in abeyance <i>AND</i> <i>RESPONSE in Opposition RE ECF Entry No. 21 Plaintiff's Appeal of Magistrate Judge Order to District Court</i> Response filed by Blue Cross Blue Shield of South Carolina, Inc..Reply to Response to Motion due by 9/11/2020 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Hood, James) (Entered: 09/04/2020)
09/14/2020	<u>24</u>	REPLY to Response to Motion re <u>22</u> MOTION for DE NOVO Determination by article III Judicial Officer and Motion to hold all time limits in abeyance Response filed by C. Holmes. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Envelope)(cpeg,) (Entered: 09/14/2020)
09/14/2020	<u>25</u>	Text Order denying in part Motion for De Novo Determination (ECF No. 22). To the extent Plaintiff objects to assignment of a U.S. Magistrate Judge to her case, the assignment is automatic pursuant to Local Rule 73.02(B)(2)(e), D.S.C., such that her Motion is DENIED. Plaintiffs request to be allowed to file documents with the Court via FAX is also DENIED. However, in light of the current pandemic, and pursuant to Standing Order 3:20-mc-00122, in addition to the U.S. Mail, common carrier courier delivery, and using the drop box at the Court, pro se litigants are temporarily permitted to file documents in Portable Document Format (PDF) by email to pro-se-filings@scd.uscourts.gov. With regard to Plaintiffs request to hold the deadlines in the August 20, 2020 Roseboro Order (ECF No. 19) in abeyance or extended indefinitely, the Motion is DENIED. With regard to Plaintiffs request for an enlargement of time to respond to Defendant Blue Cross Blue Shield of South Carolinas Motion to Dismiss, Defendant has consented to a thirty (30) day extension, ECF Nos. 23 at 5; 24 at 4. Accordingly, Plaintiff is hereby GRANTED thirty (30) days from the date of this Order to file any response to Defendants Motion to Dismiss. Plaintiff's response due 10/14/2020. Entered at the direction of Magistrate Judge Molly H Cherry on 09/14/2020.(cpeg,) Modified on 9/14/2020 to correct docket text (cpeg,). (Entered: 09/14/2020)
09/14/2020	<u>26</u>	***DOCUMENT MAILED <u>25</u> Order on Motion for Miscellaneous Relief,,, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) (Entered: 09/14/2020)
10/08/2020	<u>28</u>	APPEAL OF MAGISTRATE JUDGE DECISION to District Court with request to hold all time limits in abeyance in the alternative preliminary response by C. Holmes re <u>25</u> Order on Motion for De Novo Determination. (Attachments: # <u>1</u> Envelope)(cpeg,) Modified docket text to correct Order on Motion description on 10/9/2020 (hada,). (Entered: 10/08/2020)

11/03/2020	<u>29</u>	RESPONSE by Blue Cross Blue Shield of South Carolina, Inc. to <u>28</u> Appeal of Magistrate Judge Decision to District Court, . (Hood, James) Modified on 11/9/2020 to correct event type in docket text (cpeg,). (Entered: 11/03/2020)
11/09/2020	<u>30</u>	REPLY by C. Holmes to <u>29</u> Response. (Attachments: # <u>1</u> Certificate of Service)(cpeg,) (Entered: 11/09/2020)
11/13/2020	<u>31</u>	REPLY by C. Holmes to <u>29</u> Response. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Envelope)(cpeg,) (Entered: 11/13/2020)
12/07/2020	<u>32</u>	IT IS ORDERED that Plaintiff shall have ten days from the date of this Order to file an Amended Complaint. The pending Motion to Dismiss (ECF No. <u>17</u>) is MOOT. If, however, Plaintiff fails to file her Amended Complaint by the deadline set forth herein, BCBS may petition the Court to restore its Motion to Dismiss (addressing the allegations as set forth in Plaintiffs current Complaint) to the docket for decision by the Court. Signed by Magistrate Judge Molly H Cherry on 12/07/2020.(cpeg,) (Entered: 12/07/2020)
12/07/2020	<u>33</u>	***DOCUMENT MAILED <u>32</u> Order on Motion to Dismiss for Failure to State a Claim, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) (Entered: 12/07/2020)
12/11/2020	<u>35</u>	TEXT ORDER denying ECF No. <u>21</u> and <u>28</u> : Plaintiff has appealed the Magistrate Judge's entry of a Roseboro order and a text order, and she has moved for a de novo determination by an Article III judge. In addition, she has requested that all time limits be held in abeyance. As the Magistrate Judge has previously explained to Plaintiff, however, to the extent she objects to the assignment of a United States Magistrate Judge, such assignment is automatic pursuant to the Local Civil Rules for the District of South Carolina, and the Court finds no merit to Plaintiff's objection. In addition, it appears that Plaintiff has been given sufficient extensions of time in this case, and the Court finds no reason to simply hold all time limits in abeyance indefinitely. Overall, the Court finds no merit to Plaintiff's appeals of the Magistrate Judge's orders, and the Court denies her appeals in full. Entered at the Direction of The Honorable Bruce Howe Hendricks on 12/10/2020. (vdru,) (Entered: 12/11/2020)
12/11/2020	<u>36</u>	***DOCUMENT MAILED <u>35</u> TEXT ORDER placed in U.S. Mail from Charleston Clerks Office to C. Holmes at P.O. Box 187 Sullivans Island, SC 29482. (vdru,) (Entered: 12/11/2020)
12/16/2020	<u>37</u>	MOTION for Extension of Time to Amend <u>1</u> Complaint by C. Holmes. Response to Motion due by 12/30/2020. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Envelope)No proposed order.Motions referred to Molly H Cherry.(cpeg,) (Entered: 12/16/2020)
12/17/2020	<u>38</u>	Text Order- Granting in part and denying in part Plaintiff's Motion for Extension of Time to Amend (ECF No. <u>37</u>). The Court grants Plaintiff an extension of fourteen (14) days from the date of this Order to file an amended complaint. Plaintiff's second request to file documents with the Court via FAX is DENIED. As noted previously (ECF No. <u>25</u>), in light of the current pandemic, and pursuant to Standing Order 3:20-mc-00122, in addition to the U.S. Mail, common carrier courier delivery, and using the drop box at the Court, pro se litigants are temporarily permitted to file documents in Portable Document Format (PDF) by email to pro-se-filings@scd.uscourts.gov. Entered at the direction of Magistrate Judge Molly H Cherry on 12/17/2020.(cpeg,) (Entered: 12/17/2020)

12/17/2020	39	***DOCUMENT MAILED 38 Order on Motion for Extension of Time to Amend, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) (Entered: 12/17/2020)
01/04/2021	41	MOTION for Enlargement of time due to Covid-19 by C. Holmes. Response to Motion due by 1/19/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Certificate of Service)No proposed order.Motions referred to Molly H Cherry.(cpeg,) (Entered: 01/05/2021)
01/06/2021	42	Text Order granting, in part, and denying, in part, Plaintiff's Motion for Extension of Time (ECF No. 41). The Court grants Plaintiff an extension of fourteen (14) days from the date of this Order to file an amended complaint. Plaintiff's Motion includes a third request to file documents with the Court via FAX, which request is denied. Plaintiff's remaining request for an extension of time to file a Rule 59(e) motion will be addressed by the District Judge. Entered at the direction of Magistrate Judge Molly H Cherry on 01/06/2021.(cpeg,) (Entered: 01/06/2021)
01/06/2021	43	***DOCUMENT MAILED 42 Order on Motion for Extension of Time,, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) (Entered: 01/06/2021)
01/08/2021	45	TEXT ORDER granting <u>41</u> Ms. Holmes a 14-day extension of time to file a Rule 59(e) motion regarding the Courts December 11, 2020 order. Entered at the Direction of The Honorable Bruce Howe Hendricks on 1/8/2021. (vdru,). (Entered: 01/08/2021)
01/08/2021	46	***DOCUMENT MAILED 45 Order placed in U.S. Mail from Charleston Clerks Office to C. Holmes at P.O. Box 187 Sullivans Island, SC 29482-0187. (vdru,) (Entered: 01/08/2021)
01/19/2021	47	APPEAL OF MAGISTRATE JUDGE DECISION to District Court by C. Holmes re 42 Order on Motion for Extension of Time. (cpeg,) (Entered: 01/19/2021)
01/19/2021	48	MOTION to Hold all time limits in Abeyance by C. Holmes. Response to Motion due by 2/2/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.Motions referred to Molly H Cherry.(cpeg,) (Entered: 01/19/2021)
01/21/2021	49	Text Order granting, in part, Plaintiff's Motion to Hold All Time Limits in Abeyance (ECF No. 48) only insofar as it "requests enlargement of time to file [an] amended complaint." ECF No. 48 at 2. The Court grants Plaintiff an extension of fourteen (14) days from the date of this Order to file an amended complaint. Plaintiff's remaining request to hold all time limits in abeyance pending appeal will be addressed by the District Judge. Entered at the direction of Magistrate Judge Molly H Cherry on 01/21/2021.(cpeg,) (Entered: 01/21/2021)
01/21/2021	51	***DOCUMENT MAILED 49 Order on Motion to Stay, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) (Entered: 01/21/2021)
01/22/2021	52	TEXT ORDER re <u>47</u> Appeal of Magistrate Judge Decision to District Court filed by C. Holmes and <u>48</u> MOTION to Stay filed by C. Holmes : After review of Plaintiff's most recent appeal and motion to hold all time limits in abeyance, the Court denies Plaintiff's requests. Plaintiff has been given sufficient extensions of time in this case; in fact, the Magistrate Judge recently granted Plaintiff an additional fourteen days to file an amended complaint (ECF No. 49). The Court finds no reason to hold all time limits in abeyance indefinitely, and the Court finds no merit to Plaintiff's appeal of the Magistrate Judge's order (ECF No. 42). Accordingly, the Court denies

		Plaintiff's appeal and motion (ECF Nos. 47 and 48.) Entered at the Direction of The Honorable Bruce Howe Hendricks on 1/22/2021. (vdru,) (Entered: 01/22/2021)
01/22/2021	<u>53</u>	***DOCUMENT MAILED 52 Order, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482. (vdru,) (Entered: 01/22/2021)
01/22/2021	<u>54</u>	MOTION for Reconsideration re 35 Order by C. Holmes. Response to Motion due by 2/5/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Email forwarding Staples Scan. Scanned evening of Friday, 1/22/21.)No proposed order. Motions referred to Molly H Cherry.(vdru,) (Entered: 01/26/2021)
02/05/2021	<u>56</u>	RESPONSE in Opposition re <u>54</u> MOTION for Reconsideration re 35 Order,,, Response filed by Blue Cross Blue Shield of South Carolina, Inc..Reply to Response to Motion due by 2/12/2021 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Clement, James) (Entered: 02/05/2021)
02/08/2021	<u>59</u>	AMENDED COMPLAINT against Blue Cross Blue Shield of South Carolina, Inc., J. Doe # 1 Through J. Doe # X, Scott McCartha, Ms. Shipman, filed by C. Holmes. (Attachments: # <u>1</u> Certificate of Service)(cpeg,) (Entered: 02/09/2021)
02/09/2021	<u>57</u>	NOTICE of Appearance by James Whittington Clement on behalf of Blue Cross Blue Shield of South Carolina, Inc. (Clement, James) (Entered: 02/09/2021)
02/09/2021	<u>58</u>	MOTION for Reconsideration re <u>32</u> Order on Motion to Dismiss for Failure to State a Claim,, <i>AND INCORPORATED MEMORANDUM IN SUPPORT</i> by Blue Cross Blue Shield of South Carolina, Inc.. Response to Motion due by 2/23/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Exhibit 2:17-cv-02949-BHH (D.S.C.) at ECF Entry No. 27-3, # <u>2</u> Exhibit 2:17-cv-02949-BHH (D.S.C.) at ECF Entry No. 71 at 1, n. 1)No proposed order.Motions referred to Molly H Cherry.(Clement, James) (Entered: 02/09/2021)
02/10/2021	<u>60</u>	Text order DENYING as MOOT Defendant Blue Cross Blue Shield of South Carolina, Inc.s Motion for Reconsideration (ECF No. <u>58</u>). Plaintiff filed her Amended Complaint on February 8, 2021 (ECF No. <u>59</u>). Entered at the direction of Magistrate Judge Molly H Cherry on 02/10/2021.(cpeg,) (Entered: 02/10/2021)
02/10/2021	<u>61</u>	***DOCUMENT MAILED 60 Order on Motion for Reconsideration, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) (Entered: 02/10/2021)
02/22/2021	<u>62</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>AMENDED COMPLAINT AND MEMORANDUM IN SUPPORT</i> by Blue Cross Blue Shield of South Carolina, Inc.. Response to Motion due by 3/8/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.Motions referred to Molly H Cherry.(Clement, James) (Entered: 02/22/2021)
02/24/2021	<u>63</u>	ROSEBORO ORDER directing clerk to forward summary judgment explanation to the opposing party and directing that party to respond in 31 days. Response due to <u>62</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>AMENDED COMPLAINT AND MEMORANDUM IN SUPPORT</i> by 3/29/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. Signed by Magistrate Judge Molly H Cherry on 02/24/2021. (cpeg,) (Entered: 02/24/2021)

02/24/2021	64	<p>Text order. Plaintiff is reminded that she is responsible for service of process under Rule 4 of the Federal Rules of Civil Procedure. See ECF No. 13 . Plaintiff's attention is directed to Rule 4(b), which provides that a summons "must be issued for each defendant to be served." Thus, Plaintiff, who amended her complaint to add new defendants, is responsible for completing and presenting to the clerk a summons form listing the new defendants, in accordance with Rules 4(a)-(b). Pursuant to Rule 4(c), Plaintiff is responsible for service of that summons and the amended complaint upon any new defendant within the time allowed by Rule 4(m).</p> <p>Rule 4(m) provides that "[i]f a defendant is not served within 90 days after the complaint is filed, the court-on motion or on its own after notice to the plaintiff-must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period." Accordingly, unless a Defendant is served within 90 days after the filing of the Amended Complaint (i.e., by May 10, 2021), that particular unserved Defendant may be dismissed without prejudice from this case.</p> <p>Once a defendant has been served with process and counsel has made an appearance in the case on behalf of that defendant, service is effected by the court's Electronic Case Filing system through a computer generated notice of electronic filing. See Fed. R. Civ. P. 5(b)(1)(E); ECF No. 13 .</p> <p>Entered at the direction of Magistrate Judge Molly H Cherry on 02/24/2021. (cpeg,) (Entered: 02/24/2021)</p>
02/24/2021	65	***DOCUMENT MAILED 63 Roseboro Order, 64 Order, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) (Entered: 02/24/2021)
03/09/2021	66	MOTION for Protection from due dates April 30, 2021 through May 11, 2021 by C. Holmes. Response to Motion due by 3/23/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # 1 Envelope)No proposed order.Motions referred to Molly H Cherry.(cpeg,) (Entered: 03/09/2021)
03/10/2021	68	TEXT ORDER re 66 Motion for Protection. The undersigned grants protection to Plaintiff Holmes for the following time period: April 30, 2021 through May 11, 2021. This Order does not afford protection from any appearance required before the District Court Judge assigned to this case, although she may separately grant such protection. AND IT IS SO ORDERED. Entered at the direction of Magistrate Judge Molly H Cherry on 03/10/2021.(cpeg,) (Entered: 03/10/2021)
03/10/2021	69	***DOCUMENT MAILED 68 Order on Motion for Miscellaneous Relief, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) (Entered: 03/10/2021)
03/15/2021	70	Summons Issued as to Scott McCartha, Ms. Shipman. Service due by 6/14/2021 (cpeg,) (Entered: 03/15/2021)
03/15/2021	71	***DOCUMENT MAILED 70 Summons Issued placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) (Entered: 03/15/2021)
03/25/2021	72	TEXT ORDER denying 54 Motion for Reconsideration. *** After review, the Court finds no merit to Ms. Holmes' motion for reconsideration, which simply repeats the same arguments and seeks the same relief the Court previously denied. Nowhere in

		her motion does Plaintiff point to any intervening change in controlling law, any new facts or evidence not available previously, or any clear error of law or manifest injustice to warrant the extraordinary remedy of Rule 59(e) relief. Accordingly, Plaintiff's motion for reconsideration is denied. Entered at the direction of Honorable Bruce Howe Hendricks on 3/25/2021. (nsw) (Entered: 03/25/2021)
03/25/2021	<u>73</u>	***DOCUMENT MAILED 72 Order on Motion for Reconsideration, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482-0187. (vdru,) (Entered: 03/26/2021)
03/29/2021	<u>74</u>	MOTION to Strike and RESPONSE in Opposition re <u>62</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>AMENDED COMPLAINT AND MEMORANDUM IN SUPPORT</i> Response filed by C. Holmes. Reply to Response to Motion due by 4/5/2021 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # <u>1</u> Certificate of Service)(cpeg,) Modified on 4/1/2021 to edit event (cpeg,). (Entered: 04/01/2021)
04/08/2021	<u>76</u>	REPLY to Response to Motion re <u>74</u> MOTION to Strike, <u>62</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>AMENDED COMPLAINT AND MEMORANDUM IN SUPPORT</i> Response filed by Blue Cross Blue Shield of South Carolina, Inc.. (Attachments: # <u>1</u> Exhibit Papa v Diamandi, # <u>2</u> Exhibit Carter v SNC-Lavalin Constructors)(Clement, James) (Entered: 04/08/2021)
04/14/2021	<u>77</u>	Letter from C. Holmes. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Envelope)(cpeg,) (Entered: 04/15/2021)
04/18/2021	<u>78</u>	SUR REPLY to REPLY to Response to Motion re <u>74</u> MOTION to Strike Response filed by C. Holmes. (cpeg,) Modified on 4/19/2021 to correct filing date (cpeg,). (Entered: 04/19/2021)
05/06/2021	<u>79</u>	MOTION for Service by Publication by C. Holmes. Response to Motion due by 5/20/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Proposed Order)No proposed order.Motions referred to Molly H Cherry.(cpeg,) (Entered: 05/07/2021)
05/19/2021	<u>80</u>	RESPONSE in Opposition re <u>79</u> MOTION for Service by Publication Response filed by Blue Cross Blue Shield of South Carolina, Inc..Reply to Response to Motion due by 5/26/2021 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Hood, James) (Entered: 05/19/2021)
06/11/2021	<u>81</u>	NOTICE: Clerk's office mailed plaintiff a copy of 3:21-mc-00331-RBH - Standing Orders - Revocation of Order Regarding District Clerk's Office Operations in Response to COVID-19. (cpeg,) (Entered: 06/11/2021)
06/18/2021	<u>82</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>Joining Blue Cross and Blue Shield of South Carolina's Motion to Dismiss the Amended Complaint, Doc. 62</i> by Scott McCartha. Response to Motion due by 7/2/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.Motions referred to Molly H Cherry.(Clement, James) (Entered: 06/18/2021)
06/18/2021	<u>83</u>	Local Rule 26.01 Answers to Interrogatories by Scott McCartha.(Clement, James) (Entered: 06/18/2021)
06/21/2021	<u>84</u>	ROSEBORO ORDER directing clerk to forward summary judgment explanation to the opposing party and directing that party to respond in 31 days. Response due to <u>82</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>Joining Blue</i>

		<i>Cross and Blue Shield of South Carolina's Motion to Dismiss the Amended Complaint, Doc. 62 by 7/22/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. Signed by Magistrate Judge Molly H Cherry on 06/21/2021. (cpeg,) (Entered: 06/21/2021)</i>
06/21/2021	<u>85</u>	***DOCUMENT MAILED <u>84</u> Roseboro Order, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) (Entered: 06/21/2021)
06/28/2021	<u>86</u>	EXPEDITED MOTIONS to Strike and/or MOTION to Exclude Pursuant to Rules 12(f) and 12(d) to be forwarded to the District Court Judge; in the alternative, MOTION for Discovery and Permission to Appeal with Stay Pending Appeal if Denied (Response to Motion due by 7/12/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45.), by C. Holmes. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Certificate of Service)Motions referred to Molly H Cherry.(hcor,) (Entered: 06/28/2021)
07/06/2021	<u>88</u>	RESPONSE in Opposition re <u>82</u> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <i>Joining Blue Cross and Blue Shield of South Carolina's Motion to Dismiss the Amended Complaint, Doc. 62</i> Response filed by C. Holmes.Reply to Response to Motion due by 7/13/2021 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Envelope)(cpeg,) (Entered: 07/06/2021)
07/12/2021	<u>89</u>	RESPONSE in Opposition re <u>86</u> MOTION to Strike MOTION to Exclude MOTION for Discovery Response filed by Blue Cross Blue Shield of South Carolina, Inc..Reply to Response to Motion due by 7/19/2021 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Hood, James) (Entered: 07/12/2021)
07/21/2021	<u>92</u>	NOTICE of Voluntary Dismissal by C. Holmes (Attachments: # <u>1</u> Certificate of Service) (cpeg,) (Entered: 07/22/2021)
07/22/2021	<u>91</u>	DELETION OF DOCKET ENTRY NUMBER 90 MOTION for voluntary dismissal Reason: Deleted to refile and correct event type. Filed <u>92</u> Notice of Voluntary Dismissal Modified filing date to that of original filing: 07/21/2021. (cpeg,) (Entered: 07/22/2021)
07/26/2021	<u>93</u>	Motion for Enlargement of time and Motion to Hold all time limits in abeyance (Response to Motion due by 8/9/2021. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45.), by C. Holmes. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Envelope)No proposed order.Motions referred to Molly H Cherry.(cpeg,) (Entered: 07/27/2021)
07/28/2021	<u>94</u>	TEXT ORDER MOOTING Plaintiff's Motion for Enlargement of Time and Motion to Hold All Time Limits in Abeyance (ECF No. <u>93</u>). Plaintiff filed a Notice of Voluntary Dismissal on July 21, 2021, dismissing this action without prejudice. ECF No. <u>92</u> . This case, therefore, has been closed, and Plaintiff's Motion is moot. The clerk of court is directed to mail Plaintiff a copy of the public docket sheet. Entered at the direction of Magistrate Judge Molly H Cherry on 07/28/2021.(cpeg,) (Entered: 07/28/2021)
07/28/2021	<u>95</u>	***DOCUMENT MAILED 94 Order on Motion for Extension of Time, Order on Motion for Miscellaneous Relief, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (cpeg,) (Entered: 07/28/2021)
10/04/2021	<u>96</u>	USCA COURT ORDER filed denying Motion for rehearing and rehearing en banc. (cpeg,) (Entered: 10/04/2021)

07/11/2022	<u>98</u>	MOTION to Stay and MOTION to Reopen Case by C. Holmes. (Response to Motion due by 7/25/2022. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45.). (Attachments: # <u>1</u> Certificate of Service)Motions referred to Molly H Cherry.(apsn) (Entered: 07/12/2022)
07/25/2022	<u>99</u>	RESPONSE in Opposition re <u>98</u> MOTION to Stay MOTION to Reopen Case Response filed by Blue Cross Blue Shield of South Carolina, Inc..Reply to Response to Motion due by 8/1/2022 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Hood, James) (Entered: 07/25/2022)
08/24/2022	<u>100</u>	TEXT ORDER denying <u>98</u> Motion to Stay; denying <u>98</u> Motion to Reopen Case. After review, the Court denies Plaintiff's motion, in which she asks the Court to restore this case and stay it pending resolution of appeal number 21-7142. Importantly, Plaintiff herself chose to voluntarily dismiss this case in July of 2021 (ECF No. 92), and the case was dismissed without prejudice on July 28, 2021 (ECF No. 94). At this time Plaintiff has offered no reason whatsoever to justify reopening this case more than one year later, and the Court finds Plaintiff's motion entirely without merit. As an additional matter, the Court specifically warns Plaintiff that she may be subject to sanctions if she continues to engage in frivolous motions practice. IT IS SO ORDERED. Signed by Honorable Bruce Howe Hendricks on 8/24/22. (nsw) (Entered: 08/24/2022)
08/24/2022	<u>101</u>	***DOCUMENT MAILED 100 Order on Motion to Stay, Order on Motion to Reopen Case, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (hcor,) (Entered: 08/24/2022)
09/14/2022	<u>102</u>	MOTION pursuant to Rules 59(e) and 60, FRCP by C. Holmes to 100 Order on Motion to Stay, Order on Motion to Reopen Case. (Attachments: # <u>1</u> Supporting Documents, # <u>2</u> Certificate of Service, # <u>3</u> Envelope)(apsn) Modified on 11/2/2022 to update docket text (apsn). (Entered: 09/14/2022)
10/06/2022	<u>104</u>	REPLY by Blue Cross Blue Shield of South Carolina, Inc. to <u>102</u> Reply . (Hood, James) (Entered: 10/06/2022)
10/11/2022	<u>105</u>	REPLY and MOTION for leave to Amend/Correct by C. Holmes. Response to Motion due by 10/25/2022. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.Motions referred to Molly H Cherry.(hcor,) (Entered: 10/13/2022)
10/18/2022	<u>106</u>	MOTION for Leave to File <i>A Surreply</i> by Blue Cross Blue Shield of South Carolina, Inc.. Response to Motion due by 11/1/2022. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Proposed Surreply)No proposed order.Motions referred to Molly H Cherry.(Hood, James) (Entered: 10/18/2022)
10/19/2022	<u>107</u>	TEXT ORDER granting <u>106</u> Motion for Leave to File a Sur-Reply. Defendant Blue Cross Blues Shield of South Carolina may file a Sur-Reply by October 21, 2022. Entered at the direction of Magistrate Judge Molly H Cherry on 10/19/2022.(apsn) Modified on 10/19/2022 to update docket text (apsn). (Entered: 10/19/2022)
10/19/2022	<u>108</u>	***DOCUMENT MAILED 107 Text Order on Motion for Leave to File, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482. (apsn) (Entered: 10/19/2022)
10/20/2022	<u>110</u>	SUR REPLY to REPLY to Response to Motion re <u>105</u> MOTION to Amend/Correct Response filed by Blue Cross Blue Shield of South Carolina, Inc.. (Hood, James) (Entered: 10/20/2022)

10/24/2022	<u>111</u>	AFFIDAVIT by C. Holmes. (hcor,) (Entered: 10/24/2022)
12/13/2022	113	TEXT ORDER denying <u>102</u> motion pursuant to Rules 59(e) and 60 and denying <u>105</u> motion for leave to amend. After review, the Court finds no merit to Ms. Holmes' most recent motions and hereby denies the same. Ms. Holmes may appeal this matter to the Fourth Circuit Court of Appeals, but the Court specifically directs her to stop filing motions in this case. IT IS SO ORDERED. Signed by Honorable Bruce Howe Hendricks on 12/13/2022.(hcor,) (Entered: 12/13/2022)
12/13/2022	114	***DOCUMENT MAILED 113 ORDER, Order on Motion to Amend/Correct, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482 (hcor,) (Entered: 12/13/2022)
01/11/2023	<u>115</u>	NOTICE OF APPEAL as to 113 ORDER, Order on Motion to Amend/Correct, by C. Holmes. - The Docketing Statement form, Transcript Order form and CJA 24 form may be obtained from the Fourth Circuit website at www.ca4.uscourts.gov (Attachments: # <u>1</u> Envelope)(hcor,) (Entered: 01/12/2023)
01/12/2023	<u>116</u>	Transmittal Sheet for Notice of Appeal to USCA re <u>115</u> Notice of Appeal, The Clerk's Office hereby certifies the record and the docket sheet available through ECF to be the certified list in lieu of the record and/or the certified copy of the docket entries. (hcor,) (Entered: 01/12/2023)
04/17/2023	118	USCA Appeal Fees received on 01/26/2023 \$ 505 receipt number 200019258 re <u>115</u> Notice of Appeal, filed by C. Holmes (hcor,) (Entered: 04/17/2023)
11/02/2023	<u>119</u>	USCA OPINION for <u>115</u> Notice of Appeal, filed by C. Holmes. Decision of Appeals Court Affirmed Decision of District Court. (agaz,) (Entered: 11/03/2023)
02/27/2024	<u>120</u>	ORDER of USCA as to <u>115</u> Notice of Appeal, filed by C. Holmes. (agaz,) (Entered: 02/27/2024)
03/06/2024	<u>121</u>	USCA MANDATE and JUDGMENT as to <u>115</u> Notice of Appeal, filed by C. Holmes (Attachments: # <u>1</u> JUDGMENT)(dgar) (Entered: 03/07/2024)

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