

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

JUL 18 2013

S.C. Supreme Court

APPEAL FROM Horry COUNTY
Court of Common Pleas
Paul M. Burch
Circuit Court Judge

On Certiorari to the Supreme Court of South Carolina
Opinion No. 4617 (S.C. Ct. App. filed September 9, 2009)

**RESPONDENT'S REPLY TO PETITIONER'S RESPONSE IN OPPOSITION TO
RESPONDENT'S MOTION TO SUPPLEMENT THE RECORD ON APPEAL**

Thelma M. Poch, as Personal
Representative for the Estate of
Kenneth O. Poch,.....Petitioner,

v.

Bayshore Concrete
Products/South Carolina, Inc.
Bayshore Concrete Products
Corporation, Tidewater
Skanska Group, Inc., and
Tidewater Skanska, Inc.,.....Defendants,

Of whom Bayshore Concrete
Products/South Carolina, Inc.,
Bayshore Concrete Products
Corporation are theRespondents.

and

Kevin Key and Sandra Key.....Petitioners,

v.

Bayshore Concrete
Products/South Carolina, Inc.
Bayshore Concrete Products
Corporation, Tidewater
Skanska Group, Inc., and
Tidewater Skanska, Inc.,.....Defendants,

of whom Bayshore Concrete
Products/South Carolina, Inc.
Bayshore Concrete Products
Corporation are theRespondents.

and

Thelma M. Poch, as Personal
Representatives for the Estate of
Kenneth O. Poch and Julius
Poch.....Petitioners,

v .

Bayshore Concrete
Products/South Carolina, Inc.,
Bayshore Concrete Products
Corporation, Tidewater, Inc. And
Tidewater Skanska, Inc.Defendants,

of whom Bayshore Concrete
Products/South Carolina, Inc.
Bayshore Concrete Products
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and

Kevin Key and Sandra Key,Petitioners,

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Bayshore Concrete
Products/South Carolina, Inc.,
Bayshore Concrete Products
Corporation, Tidewater, Inc. And
Tidewater Skanska, Inc.Defendants,

of whom Bayshore Concrete Products/South Carolina, Inc. Bayshore Concrete Products Corporation are theRespondents.

and

Thelma M. Poch, as Personal Representatives for the Estate of Kenneth O. Poch and Julius Poch.....Petitioners,

v .

Bayshore Concrete Products/South Carolina, Inc., Bayshore Concrete Products Corporation, Tidewater, Inc. And Tidewater Skanska, Inc.Defendants,

of whom Bayshore Concrete Products/South Carolina, Inc. Bayshore Concrete Products Corporation are theRespondents.

Respondents submit the following Reply to Petitioner's Response to Respondent's Motion to Supplement the Record:

INTRODUCTION

Respondent's Motion to Supplement centers around the issue that Petitioners never raised the sufficiency or existence of the coverage of the workers compensation policy at the trial court level precisely because they had a copy of the policy and its existence was never a question at the time. Petitioners initial argument under Harrell v Pineland, 337 S.C.

313, 523 S.E.2d 766 (S.C. 1999) was simply Bayshore Concrete Products Corporation had not collected a certificate of insurance documenting coverage. (ROA at 191-194). Petitioners never raised that the policy didn't exist or that the policy did not cover Respondents.

The Petitioners' current argument that the policy was not exchanged or that it did not cover Respondents is one born out of the hazy recollection from a matter that has been on appeal for six years, since 2007. Petitioners insistence that the workers compensation policy was not provided to them in discovery opens the door for Respondents to produce the written discovery exchanged between the parties showing quite the opposite, that the workers compensation policy was in fact provided and that its existence and the sufficiency of its coverage was not raised at the time and is a non-issue now.

On September 13, 2005, Petitioners sent Respondents *Plaintiff's Second Set of Requests for Production Directed to Defendant Bayshore Concrete Corp. and Plaintiff's Second Set of Requests for Production Directed to Defendant Bayshore Concrete Products/South Carolina, Inc.* See Exs. A and B. Petitioners' first numbered request in each of the above *Requests for Production* was for a copy of all insurance policies providing workers compensation coverage to Respondents for 2002.

Respondents responded to these requests on December 27, 2005, with *Defendant's Responses to Plaintiff's Second Request for Production to Bayshore Concrete Products Corp. and Defendant's Responses to Plaintiff's Second Request for Production to Bayshore Concrete Products Corporation/South Carolina, Inc.* See Exs. C and D. Respondents' first numbered respondent in each of the above *Responses to Requests for*

Production was to provide a copy of the policy issued to Tidewater Skanska Group, Inc.

Neither party included a copy of the policy in the Record on Appeal, simply because the existence of the same was never in doubt at the time. Harrell v. Pineland, 337 S.C. 313, 523 S.E.2d 766 (S.C. 1999) does not expressly require that a full copy of the workers compensation policy must be introduced into evidence in order to satisfy its requirements. The Affidavit of Richard Stadler was introduced by Respondents as a means of providing the trial court with an easily digestible alternative to reviewing a thousand pages of insurance policy. Neither the veracity of Stadler's affidavit nor the existence of the workers compensation policy was ever expressly questioned by Petitioners until after the trial court had ruled and the matter was already on appeal. The purpose of supplementing the record on appeal is simply to show to This Court that there is absolutely no significance to the omission of the actual workers compensation policy other than to show that, at the time, it was not an issue between the parties, or with the trial court, thus, it should not be an issue in this appeal.

I. **Respondent's Motion Should be Granted Since The Existence Of The Workers Compensation Insurance Policy Covering Bayshore Concrete Products Corp. And Bayshore Concrete Products of South Carolina, Inc. Was Never Disputed At The Trial Court Level.**

Respondent's Motion to Supplement should be granted since the workers compensation insurance policy covering Bayshore Concrete Products Corp., and Bayshore Concrete Products of South Carolina, Inc., was previously produced to the Petitioners at the trial level and was never disputed by Petitioners at that time. Petitioners had the opportunity to depose Richard Stadler. Petitioners had the opportunity to include the policy in the Record on Appeal. The Respondents met their burden at the trial court level that

they had workers compensation coverage by providing the Affidavit of Stadler. Petitioners' only evidence has been to nitpick the wording of the Stadler Affidavit after the Record on Appeal was submitted. Nitpicking the wording of Sadler's Affidavit is not sufficient to prove that Respondents did not have coverage.

II. **Respondent's Motion Should Be Granted Since the Petitioners Never Raised the Authenticity or Completeness of the Policy at the Trial Level.**

Petitioners are not prejudiced since Exhibits A through D clearly show that Petitioners were provided with the subject insurance policy during discovery at the trial court level. If the policy had not been produced, or was somehow in question, Petitioners would have and should have raised this issue with the trial court.¹ Yet, they did not, and therefore, did not preserve the objection and Petitioners are not prejudiced.

III. **The Affidavit of Richard Stadler in Conjunction with the Workers Compensation Policy Eliminates All Doubt That Respondents Had Obtained Workers Compensation Coverage At The Time Of the Underlying Incident.**

Respondents did have workers compensation coverage, as shown by both the policy and the Affidavit of Richard Stadler. In fact, Respondents stand by their position that the Affidavit of Richard Stadler is more than sufficient to settle the issue. The supplementation of the policy to the record is simply to reinforce to This Court that Petitioner's arguments to the contrary are contrived and without any basis whatsoever.

Petitioners argument that there is no coverage for Respondents, since the Extension of Information Page lists Respondents as other workplaces is non-sensical. The actual corporate entities are listed in the Extension to the Information Page under Item 1, which

¹Petitioners misquote Kellam's affidavit, which stated that Respondents had provided everything in their possession. The affidavit does not say it could not locate an insurance policy.

is the item that list the name of the insured entity. See Petitioners Exhibit 2 and 3.

Petitioner's argument that Stadler's affidavit is not sufficient to evidence coverage for Bayshore Concrete Products Corporation is equally without merit. If a signed lease were required for Bayshore Concrete Products Corporation to provide workers compensation coverage then the whole concept of the Statutory Employer exclusivity that we are litigating would be undermined. Under Petitioner's theory, no leased employee can look upstream for workers compensation coverage unless there is a signed lease agreement with the purported upstream employer. In fact, the opposite is true. The foundational principle of workers compensation exclusivity is that Petitioners would be covered by the workers compensation policy of any upstream employers whose Petitioners were performing. Thus, so long as Petitioners were performing the work of Bayshore Concrete Products Corp., and they were, then Bayshore Concrete Products Corp. is immune.

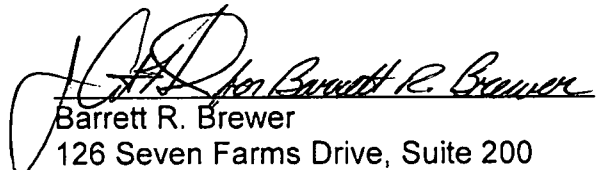
Lastly, with respect to the argument that demolition work is not covered by the policy, which Respondents expressly deny, Petitioners conveniently ignore Travelers Doc Mgmt 00272 which shows the Schedule of Operations in South Carolina include excavation. Excavation is defined by Websters as: 1: to form a cavity or hole in; 2: to form by hollowing out; 3: to dig out and remove; and 4: to expose to view by or as if digging away a covering. See Ex. E. Petitioners were mortally wounded by the collapse of a trench that they were excavating.

Respondents respectfully reaffirm and reallege all of their arguments in their Memorandums and Oral Arguments, that both Bayshore Concrete Products Corp. and Bayshore Concrete Products of South Carolina, Inc.

CONCLUSION

For the reasons set forth above, Respondents respectfully request This Court grant its Motion to Supplement the Record and Affirm the Order of the South Carolina Court of Appeals and the Trial Court dismissing this action against Respondents, pursuant to the doctrine of workers compensation exclusivity.

CLAWSON AND STAUBES, LLC


Barrett R. Brewer
126 Seven Farms Drive, Suite 200
Charleston, South Carolina 29492-8144
(843) 577-2026

Attorney for the Respondents

Charleston, South Carolina
July 18, 2013

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM Horry COUNTY
Court of Common Pleas
Paul M. Burch
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On Certiorari to the Court of Appeals of South Carolina
Opinion No. 4617 (S.C. Ct. App. filed September 9, 2009)

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Corporation, Tidewater, Inc. And
Tidewater Skanska, Inc.Defendants,

of whom Bayshore Concrete
Products/South Carolina, Inc.

Bayshore Concrete Products Corporation are the Respondents.

and

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of whom Bayshore Concrete Products/South Carolina, Inc. Bayshore Concrete Products Corporation are the Respondents.

I certify that I have served the **RESPONDENT'S REPLY TO PETITIONER'S RESPONSE IN OPPOSITION TO RESPONDENT'S MOTION TO SUPPLEMENT THE RECORD ON APPEAL** on the Clerk of Supreme Court and on Counsel for the Petitioners by serving copies of the same via U.S. Mail on July 9, 2013 to the following:

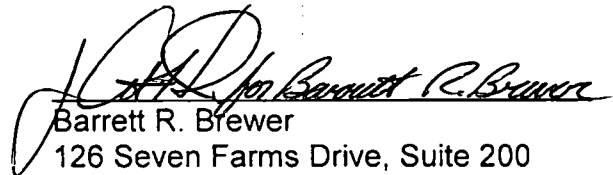
Christine Companion Varnado, Esquire
Jason Scott Luck, Esquire
SEIBELS LAW FIRM, P.A.
127 King Street, Suite 100
Charleston, SC 29401
Telephone: (843) 722-6777
Fax: (843) 722-6781

and

Robert B. Varnado, Esquire
Brown & Varnado
103 Church Street
Mount Pleasant, SC 29464
Telephone: 743 737-7300

John R. Kuhn, Esquire
Kuhn & Kuhn, LLC
39 Broad Street, Suite 301
Charleston, SC 29401
Phone: (843) 577-3700

CLAWSON AND STAUBES, LLC

A handwritten signature in black ink, appearing to read "Barrett R. Brewer", is written over a horizontal line. The signature is fluid and cursive.

Barrett R. Brewer
126 Seven Farms Drive, Suite 200
Charleston, South Carolina 29492-
8144
(843) 577-2026

Attorney for the Respondents

Charleston, South Carolina
July 18, 2013

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS

THELMA M. POCH, as the Personal)
Representative for the ESTATE)
OF KENNETH O. POCH,)

CASE NO.: 03-CP-26-6824

Plaintiff,)

v.)

PLAINTIFFS' SECOND SET OF
REQUESTS FOR PRODUCTION
DIRECTED TO DEFENDANT
BAYSHORE CONCRETE
PRODUCTS CORPORATION

BAYSHORE CONCRETE PRODUCTS/
SOUTH CAROLINA, INC., BAYSHORE
CONCRETE PRODUCTS CORPORATION,)
SKANSKA AB, SKANSKA USA CIVIL, INC.,)
BEERS SKANSKA, SKANSKA USA)
BUILDING, INC., SKANSKA PROJECT)
DEVELOPMENT USA, TIDEWATER)
SKANSKA GROUP, INC., TIDEWATER)
SKANSKA, INC., and SKANSKA USA, INC.,)

Defendants.)

KEVIN KEY and SANDRA KEY,)

CASE NO.: 03-CP-26-6825

Plaintiffs,)

v.)

BAYSHORE CONCRETE PRODUCTS/
SOUTH CAROLINA, INC., BAYSHORE
CONCRETE PRODUCTS CORPORATION,)
SKANSKA AB, SKANSKA USA CIVIL, INC.,)
BEERS SKANSKA, SKANSKA USA)
BUILDING, INC., SKANSKA PROJECT)
DEVELOPMENT USA, TIDEWATER)
SKANSKA GROUP, INC., TIDEWATER)
SKANSKA, INC., and SKANSKA USA, INC.,)

Defendants.)



- (a) the type of document involved, and a general description of its contents;
- (b) the name, business and residence addresses, telephone numbers, and position of the individual from whom the document emanated;
- (c) the name, business and residence addresses, telephone numbers, and position of each individual to whom the document or a copy thereof was sent;
- (d) the date of the document;
- (e) the privilege upon which the Defendant relies in withholding the document;
- (f) the facts upon which the Defendant relies in support of its claim that the document is privileged; and
- (g) the names, business and residence addresses, telephone numbers, and positions or occupations of individuals known or believed by the Defendant to have knowledge concerning the factual basis for its assertion of privilege with regard to the document.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Please provide a copy of all insurance policies including, but not limited to declaration pages which provided Bayshore Concrete Products Corporation with workers' compensation coverage for the entire year of 2002.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2: Please provide a copy of any and all leases between Bayshore Concrete Products Corporation and the property owners of the real property where Kenneth Poch was killed and Kevin Key was injured on June 6, 2002.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3: Please provide a copy of the final version of Donnie Kellam's letter to Mr. James Conner, Health Supervisor, South Carolina Department of Labor, dated July 29, 2002 (designated as p. 31 of Exhibit B in depositions taken on June 28 and 29, 2005).

RESPONSE:

REQUEST FOR PRODUCTION NO. 4: Please provide a copy of the final version of S. Keith Colonna's letter to Mr. David Copeland, Health Compliance Officer, Division of Labor, dated August 2, 2002 (designated as p. 35 of Exhibit B in the depositions taken on June 28 and 29, 2005).

RESPONSE:

REQUEST FOR PRODUCTION NO. 5: Please provide a complete copy of any and all Bayshore Concrete Products Corporation's safety and loss prevention manuals which were in existence at any time in calendar year 2002.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6: Please provide a complete copy of any checks issued by Bayshore Concrete Products Corporation to Job Place, Inc. and/or Personnel Resources, LLC in calendar years 2000 through and including 2003.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7: Please provide a complete copy of any and all documentation showing any payments made by Bayshore Concrete Products Corporation to Job Place, Inc. and/or Personnel Resources, LLC in calendar years 2000 through and including 2003.

RESPONSE:

REQUEST FOR PRODUCTION NO. 8: Please provide a complete copy of all invoices and/or bills sent to or received by Bayshore Concrete Products Corporation from Job Place, Inc. and/or Personnel Resources, LLC in calendar years 2000 to and including the entirety of 2003.

RESPONSE:

REQUEST FOR PRODUCTION NO. 9: Please provide a complete copy of all canceled checks issued by Bayshore Concrete Products Corporation as payment in whole or in part for the lease for the real property where Kenneth Poch was killed and Kevin Key was injured on June 6, 2002.

RESPONSE:

REQUEST FOR PRODUCTION NO. 10: Please provide a complete copy of Larry Lenart's personnel file.

RESPONSE:

REQUEST FOR PRODUCTION NO. 11: Please provide a complete copy of all orientation and training materials provided, shown or made available to any or all employees who worked at the Bayshore site located at Fire Tower Road, Longs, South Carolina.

RESPONSE:

REQUEST FOR PRODUCTION NO. 12: Please provide a copy of any and all log books used at the Bayshore site at Fire Tower Road, Longs, South Carolina to log the names or any other information about individuals entering or exiting the facility.

[SIGNATURE ON FOLLOWING PAGE]

KERNODLE, TAYLOR & ROOT

By: *Christine C. Varnado*
Christine Companion Varnado
Robert B. Varnado
914 Folly Road, Suite 2
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John R. Kuhn
KUHNS & KUHNS, LLC
7 State Street
Charleston, SC 29401
(843) 577-3700

Frank X. Duff
Gerald E. Lofstead, III
Schrader Byrd & Companion, PLLC
The Maxwell Centre
32-20th Street, Suite 500
Wheeling, WV 26003
(304) 233-3390

ATTORNEYS FOR PLAINTIFFS

Charleston, South Carolina

September 13, 2005

CERTIFICATE OF SERVICE

The undersigned, Attorney for Plaintiffs, hereby certifies that on the 13th day of September, 2005, a copy of the attached Second Set of Requests for Production to Defendant Bayshore Concrete Products Corporation was placed in an envelope, with first-class postage pre-paid, and mailed to:

Samuel R. Clawson, Esquire
Clawson & Staubes, LLC
304 Meeting Street
Charleston, SC 29401

AND

Henry P. Bouffard, Esquire
Pro Hac Vice Pending
Vendeventer Black, LLP
500 World Trade Center
Norfolk, VA 23510
ATTORNEYS FOR DEFENDANTS


Christine Companion Varnado

6087-4

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS

THELMA M. POCH, as the Personal)
Representative for the ESTATE)
OF KENNETH O. POCH,)
)
Plaintiff,)

CASE NO.: 03-CP-26-6824

v.)

PLAINTIFFS' SECOND SET OF
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PRODUCTS / SOUTH
CAROLINA, INC.

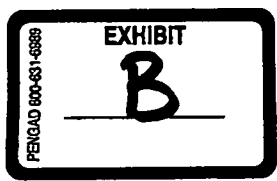
BAYSHORE CONCRETE PRODUCTS/
SOUTH CAROLINA, INC., BAYSHORE
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BEERS SKANSKA, SKANSKA USA)
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SKANSKA GROUP, INC., TIDEWATER)
SKANSKA, INC., and SKANSKA USA, INC.,)
)
Defendants.)

KEVIN KEY and SANDRA KEY,)
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Plaintiffs,)

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Defendants.)
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THELMA M. POCH, individually
and as Personal Representative for the ESTATE
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Plaintiffs,

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BUILDING, INC., SKANSKA PROJECT
DEVELOPMENT USA, TIDEWATER
SKANSKA GROUP, INC., TIDEWATER
SKANSKA, INC., and SKANSKA USA, INC.,

Defendants.

CASE NO.: 03-CP-26-6826

TO: SAMUEL R. CLAWSON, ESQUIRE, ATTORNEY FOR DEFENDANTS:

Plaintiffs Thelma M. Poch, individually and as personal representative of the Estate of Kenneth O. Poch ("Poch"), Julius Poch, Kevin Key, and Sandra Key herewith request that Defendant Bayshore Concrete Products/South Carolina, Inc. answer the following Requests for Production, under oath, pursuant to South Carolina Rules of Civil Procedure 34, and hereby request that this Defendant produce for inspection and copying, within thirty (30) days from the date of this request, at the offices of Kemodle, Taylor & Root, 914 Folly Road, Suite 2, Charleston, South Carolina 29422, the following documents or things which may be in the possession, custody or control of this Defendant or its attorneys.

If in responding to these Requests for Production, the Defendant withholds production of any document on the ground that it is privileged, please state with respect to each such document:

- (a) the type of document involved, and a general description of its contents;
- (b) the name, business and residence addresses, telephone numbers, and position of the individual from whom the document emanated;
- (c) the name, business and residence addresses, telephone numbers, and position of each individual to whom the document or a copy thereof was sent;
- (d) the date of the document;
- (e) the privilege upon which the Defendant relies in withholding the document;
- (f) the facts upon which the Defendant relies in support of its claim that the document is privileged; and
- (g) the names, business and residence addresses, telephone numbers, and positions or occupations of individuals known or believed by the Defendant to have knowledge concerning the factual basis for its assertion of privilege with regard to the document.

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[SIGNATURE ON FOLLOWING PAGE]

KERNODLE, TAYLOR & ROOT

By: Christine C. Varnado
Christine Companion Varnado
~~Robert B. Varnado~~

914 Folly Road, Suite 2
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John R. Kuhn
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7 State Street
Charleston, SC 29401
(843) 577-3700

Frank X. Duff
Gerald E. Lofstead, III
Schrader Byrd & Companion, PLLC
~~The Maxwell Centre~~
32-20th Street, Suite 500
Wheeling, WV 26003
(304) 233-3390

ATTORNEYS FOR PLAINTIFFS

Charleston, South Carolina

September 13, 2005


CERTIFICATE OF SERVICE

The undersigned, Attorney for Plaintiffs, hereby certifies that on the 13th day of September, 2005, a copy of the attached Second Set of Requests for Production to Defendant Bayshore Concrete Products/South Carolina, Inc. was placed in an envelope, with first-class postage pre-paid, and mailed to:

Samuel R. Clawson, Esquire
Clawson & Staubes, LLC
304 Meeting Street
Charleston, SC 29401

AND

Henry P. Bouffard, Esquire
Pro Hac Vice Pending
Vendeunter Black, LLP
500 World Trade Center
Norfolk, VA 23510
ATTORNEYS FOR DEFENDANTS



Christine Companion-Varnado

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF HORRY) CASE NO.: 03-CP-26-6824

THELMA M. POCH, as Personal)
Representative for the ESTATE OF)
KENNETH O. POCH,)
)
Plaintiff,)

vs.)

BAYSHORE CONCRETE)
PRODUCTS/SOUTH CAROLINA,)
INC., BAYSHORE CONCRETE)
PRODUCTS CORPORATION,)
SKANSKA AB, SKANSKA USA)
CIVIL, INC., BEERS SKANSKA,)
SKANSKA USA BUILDING, INC.,)
SKANSKA PROJECT)
DEVELOPMENT USA, TIDEWATER)
SKANSKA GROUP, INC.,)
TIDEWATER SKANSKA, INC.,)
and SKANSKA USA, INC.,)
)
Defendants.)

**DEFENDANTS' RESPONSES
TO PLAINTIFFS' SECOND REQUEST
FOR PRODUCTION TO
BAYSHORE CONCRETE
PRODUCTS CORPORATION**

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF HORRY) CASE NO.: 03-CP-26-6825

KEVIN KEY and SANDRA KEY,)
)
Plaintiffs,)

vs.)

BAYSHORE CONCRETE)
PRODUCTS/SOUTH CAROLINA,)
INC., BAYSHORE CONCRETE)
PRODUCTS CORPORATION,)
SKANSKA AB, SKANSKA USA)



CIVIL, INC., BEERS SKANSKA,)
SKANSKA USA BUILDING, INC.,)
SKANSKA PROJECT)
DEVELOPMENT USA, TIDEWATER)
SKANSKA GROUP, INC.,)
TIDEWATER SKANSKA, INC.,)
and SKANSKA USA, INC.,)

Defendants.)

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF Horry)

CASE NO.: 03-CP-26-6826)

THELMA M. POCH, Individually and)
as Personal Representative for the)
ESTATE OF KENNETH O. POCH)
and JULIUS. POCH,)

Plaintiff,)

vs.)

BAYSHORE CONCRETE)
PRODUCTS/SOUTH CAROLINA,)
INC., BAYSHORE CONCRETE)
PRODUCTS CORPORATION,)
SKANSKA AB, SKANSKA USA)
CIVIL, INC., BEERS SKANSKA,)
SKANSKA USA BUILDING, INC.,)
SKANSKA PROJECT)
DEVELOPMENT USA, TIDEWATER)
SKANSKA GROUP, INC.,)
TIDEWATER SKANSKA, INC.,)
and SKANSKA USA, INC.,)


Defendants.)

TO: CHRISTINE COMPANION VARNADO and ROBERT B. VARNADO,
Attorneys for the Plaintiffs:

The Defendants above named, responding to the Plaintiff's Requests for Production, state as follows:

1. See attached copy of policy issued to Tidewater Skanska Group Inc.
2. See attached Lease Agreement between Job Place Inc and Bayshore Concrete Products (previously provided at deposition).
3. Counsel for the Defendants do not have a copy of the document(s) requested in Request for Production Number 3; furthermore, this information has been requested from our client(s) and they have been unable to locate this information. Should these materials be located in the future, we reserve the right to supplement this response.
4. Counsel for the Defendants do not have a copy of the document(s) requested in Request for Production Number 4; furthermore, this information has been requested from our client(s) and they have been unable to locate this information. Should these materials be located in the future, we reserve the right to supplement this response.
5. Counsel for the Defendants do not have a copy of the document(s) requested in Request for Production Number 5; furthermore, this information has been requested from our client(s) and they have been unable to locate this information. Should these materials be located in the future, we reserve the right to supplement this response.
6. See attached.
7. See attached.

8. See attached.
9. Counsel for the Defendants do not have a copy of the document(s) requested in Request for Production Number 9; furthermore, this information has been requested from our client(s) and they have been unable to locate this information. Should these materials be located in the future, we reserve the right to supplement this response.
10. Counsel for the Defendants do not have a copy of the document(s) requested in Request for Production Number 10; furthermore, this information has been requested from our client(s) and they have been unable to locate this information. Should these materials be located in the future, we reserve the right to supplement this response.
11. Counsel for the Defendants do not have a copy of the document(s) requested in Request for Production Number 11; furthermore, this information has been requested from our client(s) and they have been unable to locate this information. Should these materials be located in the future, we reserve the right to supplement this response.
12. Counsel for the Defendants do not have a copy of the document(s) requested in Request for Production Number 12; furthermore, this information has been requested from our client(s) and they have been unable to locate this information. Should these materials be located in the future, we reserve the right to supplement this response.



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(843) 577-2026

Henry P. Bouffard, Esquire
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500 World Trade Center
Norfolk, VA 23510
(757) 446-8600

Charleston, South Carolina
December 27, 2005

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing pleading has been served upon opposing counsel by mailing a copy properly addressed and with sufficient postage affixed thereto on this 9 day of ~~December, 2005~~ January 2006

W. Cluck

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY) CASE NO.: 03-CP-26-6824

THELMA M. POCH, as Personal
Representative for the ESTATE OF
KENNETH O. POCH,

Plaintiff,

vs.

BAYSHORE CONCRETE
PRODUCTS/SOUTH CAROLINA,
INC., BAYSHORE CONCRETE
PRODUCTS CORPORATION,
SKANSKA AB, SKANSKA USA
CIVIL, INC., BEERS SKANSKA,
SKANSKA USA BUILDING, INC.,
SKANSKA PROJECT
DEVELOPMENT USA, TIDEWATER
SKANSKA GROUP, INC.,
TIDEWATER SKANSKA, INC.,
and SKANSKA USA, INC.,

Defendants.

**DEFENDANTS' RESPONSES
TO PLAINTIFFS' SECOND REQUEST
FOR PRODUCTION TO
BAYSHORE CONCRETE PRODUCTS
CORPORATION/SOUTH CAROLINA, INC.**

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY) CASE NO.: 03-CP-26-6825

KEVIN KEY and SANDRA KEY,

Plaintiffs,

vs.

BAYSHORE CONCRETE
PRODUCTS/SOUTH CAROLINA,
INC., BAYSHORE CONCRETE
PRODUCTS CORPORATION,
SKANSKA AB, SKANSKA USA



CIVIL, INC., BEERS SKANSKA,)
SKANSKA USA BUILDING, INC.,)
SKANSKA PROJECT)
DEVELOPMENT USA, TIDEWATER)
SKANSKA GROUP, INC.,)
TIDEWATER SKANSKA, INC.,)
and SKANSKA USA, INC.,)

Defendants.)

STATE OF SOUTH CAROLINA)
COUNTY OF Horry)

IN THE COURT OF COMMON PLEAS)
CASE NO.: 03-CP-26-6826)

THELMA M. POCH, Individually and)
as Personal Representative for the)
ESTATE OF KENNETH O. POCH)
and JULIUS. POCH,)

Plaintiff,)

vs.)

BAYSHORE CONCRETE)
PRODUCTS/SOUTH CAROLINA,)
INC., BAYSHORE CONCRETE)
PRODUCTS CORPORATION,)
SKANSKA AB, SKANSKA USA)
CIVIL, INC., BEERS SKANSKA,)
SKANSKA USA BUILDING, INC.,)
SKANSKA PROJECT)
DEVELOPMENT USA, TIDEWATER)
SKANSKA GROUP, INC.,)
TIDEWATER SKANSKA, INC.,)
and SKANSKA USA, INC.,)

Defendants.)

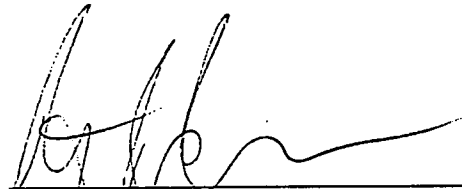
TO: CHRISTINE COMPANION VARNADO and ROBERT B. VARNADO,
Attorneys for the Plaintiffs:

The Defendants above named, responding to the Plaintiffs' Second Requests for Production, state as follows:

1. See attached copy of policy issued to Tidewater Skanska Group Inc.
2. See attached Lease Agreement between Job Place Inc and Bayshore Concrete Products (previously provided at deposition).
3. Counsel for the Defendants do not have a copy of the document(s) requested in Request for Production Number 3; furthermore, this information has been requested from our client(s) and they have been unable to locate this information. Should these materials be located in the future, we reserve the right to supplement this response.
4. Counsel for the Defendants do not have a copy of the document(s) requested in Request for Production Number 4; furthermore, this information has been requested from our client(s) and they have been unable to locate this information. Should these materials be located in the future, we reserve the right to supplement this response.
5. Counsel for the Defendants do not have a copy of the document(s) requested in Request for Production Number 5; furthermore, this information has been requested from our client(s) and they have been unable to locate this information. Should these materials be located in the future, we reserve the right to supplement this response.
6. See attached.
7. See attached.
8. See attached.
9. Counsel for the Defendants do not have a copy of the document(s) requested in Request for Production Number 9; furthermore, this information has been requested

from our client(s) and they have been unable to locate this information. Should these materials be located in the future, we reserve the right to supplement this response.

10. Counsel for the Defendants do not have a copy of the document(s) requested in Request for Production Number 10; furthermore, this information has been requested from our client(s) and they have been unable to locate this information. Should these materials be located in the future, we reserve the right to supplement this response.
11. Counsel for the Defendants do not have a copy of the document(s) requested in Request for Production Number 11; furthermore, this information has been requested from our client(s) and they have been unable to locate this information. Should these materials be located in the future, we reserve the right to supplement this response.
12. Counsel for the Defendants do not have a copy of the document(s) requested in Request for Production Number 12; furthermore, this information has been requested from our client(s) and they have been unable to locate this information. Should these materials be located in the future, we reserve the right to supplement this response.



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Charleston, South Carolina
December 27, 2005

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing pleading has been served upon opposing counsel by mailing a copy properly addressed and with sufficient postage affixed thereto on this 9 day of ~~December~~, 2005. January 2006

V. Clash



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ex·ca·vate

ex·ca·vat·ed ex·ca·vat·ing

Definition of EXCAVATE

Like

- 1 : to form a cavity or hole in
- 2 : to form by hollowing out
- 3 : to dig out and remove
- 4 : to expose to view by or as if by digging away a covering
<excavate the remains of a temple>

: to make excavations

- See excavate defined for English-language learners »
- See excavate defined for kids »

Examples of EXCAVATE

- They *excavated* an ancient city.
- It is the first site to be *excavated* in this area.
- They began *excavating* the backyard for their new pool.
- The excess dirt was carefully *excavated*.

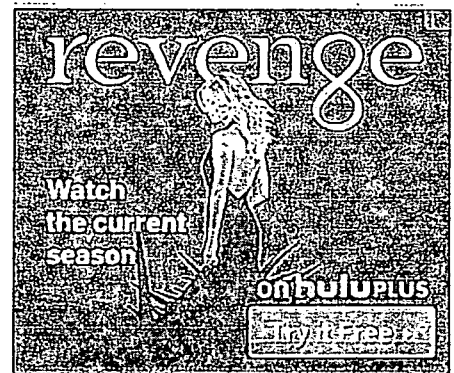
Origin of EXCAVATE

Latin *excavatus*, past participle of *excavare*, from *ex-* + *cavare* to make hollow — more at *CAVATINA*

First Known Use: 1599

Related to EXCAVATE

- dig shovel
- dredge burrow claw grub dig in scoop spade delve



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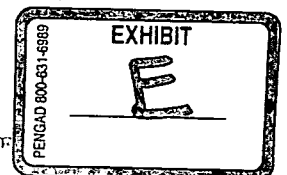


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