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**Apr 04 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas, Business Court Program

R. Lawton McIntosh, Circuit Court Judge

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Appellate Case No. 2020-001645  
Case No. 2019-CP-23-00998

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McMillan Pazdan Smith, LLC, . . . . . Plaintiff/Counterclaim Defendant-Respondent,

v.

Donza H. Mattison,. . . . . Defendant/Counterclaimant-Appellant,

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Donza H. Mattison, in a Derivative  
Capacity on Behalf of McMillan Pazdan  
Smith, LLC,. . . . . Third-Party Plaintiff-Appellant,

v.

Rondald G. Smith, Joseph M. Pazdan,  
Brad B. Smith, and Chad C. Cousins. . . . . Third-Party Defendants-Respondents.

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NOTICE OF SUPPLEMENTAL AUTHORITY

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David E. Rothstein, SC Bar No. 66295  
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Attorney for Appellant

Appellant, Donza H. Mattison (hereinafter “Ms. Mattison”), by and through her undersigned counsel, hereby submits this Notice of Supplemental Authority, which case was decided after the oral argument in the case on December 6, 2023. The supplemental authority is the opinion of the South Carolina Court of Appeals in The Boathouse at Breach Inlet, LLC, by and through its member, Laurence O. Stoney, Jr. V. Richard Stoney etc. et al., Opinion No. 6056, Howard Adv. Sh. No. 13, at 41 (Ct. App. Apr. 3, 2024). The Stoney case is relevant to several issues raised by Appellant on appeal: specifically, whether Ms. Mattison was a fair and adequate representative of the interests of the company so as to bring a derivative action under Rule 23(b)(1), SCRCF, and whether Ms. Mattison could serve as a “class of one,” where other members of the LLC stated their opposition to the derivative action.

Appellant would welcome the opportunity to brief the applicability of the holdings in Stoney if requested by the Court.

Respectfully submitted,

April 4, 2024

s/ David E. Rothstein  
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PROOF OF SERVICE

I certify that I have served the foregoing Notice of Supplemental Authority on Respondents, McMillan Pazdan Smith, LLC, Rondald G. Smith, Joseph M. Pazdan, Brad B. Smith, and Chad C. Cousins, by email and by depositing a copy of this document in the United States Mail, postage prepaid (as indicated below), on April 4, 2024, addressed to their following attorneys of record: Samuel W. Outten and Miles Coleman, Nelson Mullins Riley & Scarborough LLP, 2 W. Washington St., Suite 400, Greenville, SC 29601 (mail and email); Thomas H. Keim, Jr. Ford Harrison, 100 Dunbar St., Suite 300, Spartanburg, SC 29306 (email only); and A. Mattison Bogan, Nelson Mullins Riley & Scarborough, LLP, 1320 Main St., 17<sup>th</sup> Floor, Columbia, SC 29201 (email only).

[Signature of Counsel on Following Page]

April 4, 2024

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