

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
COURT OF COMMON PLEAS

Honorable Heath P. Taylor

Trial Case No. 2023CP1801621
Appellate Case No. 2024-000564

EADIE'S CONSTRUCTION COMPANY and
EADIE'S INDUSTRIAL, INC.

Appellants,

vs.

EADIE'S DIVA D ENTERPRISES, DAWN EADIE, JORDAN JONES,
JUSTINE LAWSON, KEVIN LAWSON, HUNTER BASCO and
MACKEL MALECKAR ,

Respondents,

vs.

KEITH EADIE,

Appellant.

RESPONSE TO APPELLANTS' MOTION TO DISQUALIFY
STEVEN L. SMITH AS COUNSEL FOR RESPONDENTS

Respondents and their undersigned counsel appear in this Appellate Case for the limited purpose of responding to Appellants' Motion to Disqualify Steven L. Smith and his firm as counsel for the Respondents. Due to the procedural and factual impossibilities, the Court should deny the Appellants' Motion to Disqualify Mr. Smith as the Respondents' legal counsel.

1. The Apellants' Motion is not properly before this Court. On April 25, 2024, the Court dismissed Appellants' above captioned appeal. On May 9, 2024, Appellants filed a petition for rehearing with court; to date, the Court has not granted Appellants' petition for a rehearing and the case remains dismissed.
2. In the event the Court entertains the Appellants' Motion, the Respondents submit the following for the Court's consideration.
 - a. Respondents do not take issue with the law recited by Appellants in their Motion to Disqualify regarding conflicts of interest between attorneys and former clients.

- b. Respondents do take issue with the facts purported by Appellants. Specifically, those facts sworn to by Mr. Eadie in his affidavit, filed in support of Appellants' Motion. Pursuant to the Affidavit of Steven L. Smith, which is incorporated herein as Exhibit A, Respondents maintain that no conflict of interest exists between Appellants and Mr. Smith or his firm. See the Affidavit of Steven L. Smith, Ex. A.
 - i. No confidential information was disclosed by Appellants to Smith or his firm (collectively hereinafter "Smith") during his limited representation of Appellants, thereby rendering the alleged conflict impossible.
 - ii. Appellants misrepresented the scope of Smith's representation in their Motion and in Mr. Eadie's Affidavit. Smith has never been general counsel for any Eadie entity; Smith has never reviewed a contract for any Eadie entity; Smith has never provided any corporate advice to an Eadie entity.

Smith's prior representation of Appellants was limited to isolated event. Smith never had an occasion to obtain any confidential information relevant to the underlying litigation from Appellants. It is not clear to Respondents why the Appellants brought the spurious Motion to Disqualify Smith. However, the facts as stated by Mr. Smith, in juxtaposition to the allegations and sworn statements by Mr. Eadie, make clear to Respondents that Appellants have brought this Motion for an improper purpose. Respondents request the Court to deny Appellant's Motion to Disqualify Mr. Smith as Counsel for Respondents.

Respectfully submitted.

/s/Zachary J. Closser _____
Steven L. Smith
Zachary J. Closser
Smith | Closser, PA
7455 Cross County Road, Suite 1 (29418)
P.O. Box 40578
Charleston, SC 29423-0578
843-760-0220
ssmith@scnlaw.com
zclosser@scnlaw.com
Attorneys for the Respondents

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May 20 2024

SC Court of Appeals

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MACKEL MALECKAR ,

Respondents,

vs.

KEITH EADIE,

Appellant.

AFFIDAVIT OF STEVEN L. SMITH

1. That I have been a member in good standing with the South Carolina Bar for thirty-nine (39) years.
2. That during my membership with the Bar, I served on the ethics advisory committee for a number of years.
3. That I have never been disciplined in any manner whatsoever during my career.
4. That during my career, I have had the pleasure to serve on a number of Boards including serving as President of the local Rotary Club, Chairman of the Board of the local YMCA,

Board of Trustees and Trustee Emeritus of Pinewood Preparatory School, and our local Habitat for Humanity Board.

5. That Keith Eadie, the individual seeking to have me removed as attorney for his estranged wife, was arrested in 2022 for manufacture, distribution, etc. of cocaine base, 1st, 1st degree harassment, and was arrested in 2024 for stalking.

6. That, unfortunately, Keith Eadie is trying intimidate everyone who opposes him, or anyone who represents people who oppose him. During a deposition in opposing counsel's office, Keith Eadie said to me that he was going to have me "kicked off of this case." That during the same series of depositions, Keith Eadie hung a picture of the murderous Joker behind Paul Ferrara so that all deponents would see it during the depositions. A picture of the deposition room with the picture is attached. Further, the individual in front of the picture is an armed "body guard" brought in by Keith Eadie.

7. This Motion is just another example of the bullying and intimidation being employed by Keith Eadie.

8. That I have read the allegations contained in the Motion to have me disqualified.

9. That the easiest thing for me to do at this point would be to remove myself as the attorney for the Defendant. However, the easiest thing to do is seldom the right thing to do.

10. I was never employed as general counsel for any of the Eadie's entities, whether Plaintiff or Defendant, and whether owned by Keith Eadie or Dawn Eadie.

11. I have never reviewed a contract for any Eadie's entity, whether Plaintiff or Defendant, and whether owned by Keith Eadie or Dawn Eadie.

12. I have never provided any corporate advice or corporate guidance for any Eadie's entity whether Plaintiff or Defendant, and whether owned by Keith Eadie or Dawn Eadie.

13. The following is the extent of my involvement with Keith Eadie, Dawn Eadie, or any of the Eadie's entities regardless of ownership:

- a. I handled a collection case for Eadie's Diva D against the Summerville Speedway approximately 10 years ago. This was my first involvement with any Eadie's entity. It was my understanding that this entity was owned by Dawn Eadie. The amount due was paid and the action was dismissed.
- b. In 2017, Johnathan F. Peace and Alisa Peace sued Dunes West Property Owners Association, Inc., Eadie's Industrial, Eadie's Construction Company, Inc., Eadie's Diva D Enterprises, LLC and Maglione Consulting, LLC. On May 23, 2017, I filed a Motion to Dismiss for all of the Eadie's entities so that the right party could be named and insurance coverage could be obtained. Thereafter, Roopal Ruparelia, insurance counsel, took over the case, and I had no further involvement.
- c. I filed a lien and foreclosure action for Eadie's Diva D, on a trailer park in 2019. This case was resolved in 2022. It was my understanding that this entity was owned by Dawn Eadie.
- d. I filed another lien against the Sandpiper Group for Eadie's Diva D. This lien was paid before a foreclosure action was filed. It was my understanding that this entity was owned by Dawn Eadie.
- e. In 2023, I filed a lien for Eadie's Diva D against a property owned by James Hardie. Eadie's Industrial is also a named party in this case, and they are represented by Sarah Baum. This case is still pending.
- f. On April 13, 2021, I received an email stating that a Vac truck from Eadie's Industrial had backed into someone's car at Santee Cooper, and that they wanted to pay him for the damage instead of running it through insurance. I was asked to provide them some simple release language. I told them to send me the names of the parties and my paralegal would prepare a simple release form. Their names were sent and the release was prepared. Attached is the bill for those services. Interestingly, we had to open a general file for the entity since we had never done any work for them before. You will note from the client number that the file was opened in 2021. This corresponds with the request for the release. This is the only billing ever sent to this company.

14. The only other matter I ever handled for any Eadie's entity is the current case.

15. I have never received any requests from anyone to review any corporate matter for any Eadie's entity, whether owned by Keith Eadie, Dawn Eadie, or any other shareholders or members of any of their entities.

16. A copy of the Complaint in the present case is attached.

17. The gravamen of the Complaint concerns the alleged theft of various items, including intellectual property and computers by several ex-employees of various Eadie entities. Of course, I did not know about any of the issues involved in this case prior to the filing of the Summons and Complaint. There is absolutely no connection between the theft of items by ex-employees, and the lien and collection work I mentioned above, or the simple release prepared for a car wreck.

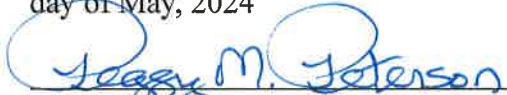
18. Other than during the current litigation, to the best of my recollection, I have only met Keith Eadie two times. Both times concerned Eadie's Diva D cases. On one occasion, Keith Eadie showed up at an on-site inspection for the trailer park case. In attendance were me, Dawn Eadie, and an employee named Hoyt. Also in attendance was Cordes Ford for the defendant, his client, and his engineer. Keith Eadie came to the meeting late and just stood, very close, behind Cordes Ford while we were meeting. Keith Eadie then walked off during the meeting and took photographs of everyone's license plates. When asked what he was doing, Dawn just replied something to the effect that that was Keith was just being Keith. I do not remember talking to Keith Eadie at that meeting other than to exchange hellos. The other meeting concerned the speedway case mentioned above. The discussion centered on the performance of Eadie's Diva D on the racetrack project.

19. Other than the above, I have had no interaction with Keith Eadie, or any of the Eadie's entities, whether owned by Dawn Eadie, Keith Eadie, or some other third party. I learned

nothing in my previously mentioned cases that would in any way conflict with the current case involving a recent theft of corporate items by ex-employees.

FURTHER YOUR AFFIANT SAYETH NOT.

Sworn to before me this 20th
day of May, 2024

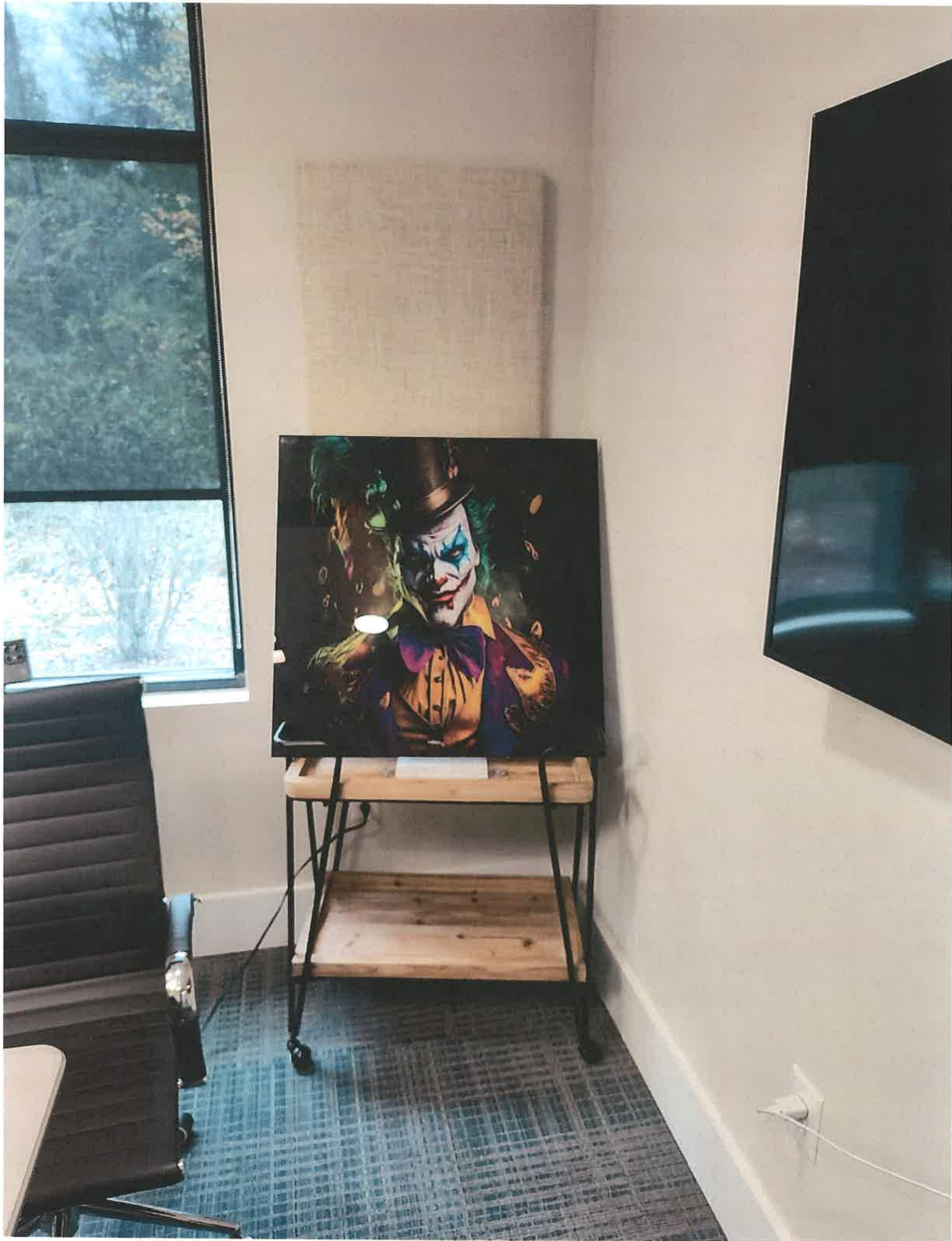


Peggy M. Peterson
Notary Public for South Carolina
My Commission Expires: 1/25/2034
23-307



Steven L. Smith
Smith | Closser, PA
7455 Cross County Road, Suite 1 (29418)
P.O. Box 40578
Charleston, SC 29423-0578
843-760-0220
ssmith@scnlaw.com





Smith | Closser | Wheeler, P.A.
7455 Cross County Road, Suite 1
Post Office Box 40578
North Charleston, SC 29423-0578
Phone 843-760-0220 Fax 843-552-2678

Eadie's Industrial, Inc.
P.O. Box 99
Ridgeville, SC 29472

May 10, 2021

Invoice #: 82290

RE: 21-121 Eadie's Industrial, Inc. - General

Date	Fees	Hours	Amount
Apr-13-21	Prepare Release with Michael Leino; correspondence with client.	0.75	105.00
	TOTAL FEES	0.75	\$105.00
	Total Fees & Costs		\$105.00
	BALANCE DUE		\$105.00

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Eadie's Construction Company,)
Incorporated and Eadie's Industrial,)
Incorporated,)

CASE NO.: 2023-CP-

Plaintiffs,

vs.

SUMMONS

Eadie's Diva D Enterprises, LLC,)
Dawn Eadie, Jordan Jones, Justine)
Lawson, Kevin Lawson, Hunter Basco)
and Mackel Maleckar,)

Defendants.

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED AND REQUIRED to Answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer thereto on the subscribers at their office located at 8887 Old University Boulevard, North Charleston, South Carolina 29406, within thirty (30) days after the service thereof, exclusive of the day of such service. If you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief sought therein.

FERRARA LAW FIRM, PLLC

s/ Paul B. Ferrara, III
Paul B. Ferrara, III
8887 Old University Blvd. Ste. 201
North Charleston, SC 29406
T: (843) 569-5511 / F: (843) 569-5411
SC Bar No.: 70511
paul@ferraralawfirm.net
Attorney for Plaintiffs

September 19, 2023
North Charleston, SC

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Eadie's Construction Company,)
Incorporated and Eadie's Industrial,)
Incorporated,)

CASE NO.: 2023-CP-

Plaintiffs,

vs.

COMPLAINT
(Jury Trial Demanded)

Eadie's Diva D Enterprises, LLC,)
Dawn Eadie, Jordan Jones, Justine)
Lawson, Kevin Lawson, Hunter Basco)
and Mackel Maleckar,)

Defendants.

TO THE DEFENDANTS ABOVE-NAMED:

NOW COMES PLAINTIFFS, Eadie's Construction Company, Incorporated and Eadie's Industrial, Incorporated, by and through their undersigned attorney, Paul B. Ferrara, III, complaining of the Defendants, and hereby demanding a jury trial and alleging as follows:

1. Plaintiff Eadie's Construction Company, Incorporated is a South Carolina corporation, with its principal place of business in Ridgeville, South Carolina and located in Dorchester County.
2. Plaintiff Eadie's Industrial, Incorporated is a South Carolina corporation, with its principal place of business in Ridgeville, South Carolina and located in Dorchester County.
3. Defendant Eadie's Diva D Enterprises, LLC is a South Carolina limited liability company, with its principal place of business in Ridgeville, South Carolina and located in Dorchester County.
4. Defendant Dawn Eadie is a citizen and resident of Ridgeville, South Carolina in Dorchester County.
5. Upon information and belief, Defendant Jordan Jones is a citizen and resident of Dorchester County, South Carolina.

6. Upon information and belief, Defendant Justine Lawson is a citizen and resident of Dorchester County, South Carolina.
7. Upon information and belief, Defendant Kevin Lawson is a citizen and resident of Dorchester County, South Carolina.
8. Upon information and belief, Defendant Hunter Basco is a citizen and resident of Dorchester County, South Carolina.
9. Upon information and belief, Defendant Mackel Maleckar is a citizen and resident of Dorchester County, South Carolina.
10. This Court has jurisdiction over the parties and the subject matter of this litigation.
11. Venue of this action is proper in this court.

FACTS

12. Defendant Dawn Eadie is currently married to Keith Eadie; however they are in the process of divorcing.
13. Keith Eadie is the sole owner of both Eadie's Construction Company, Incorporated and Eadie's Industrial, Incorporated.
14. Prior to the Eadies' marital split, Dawn Eadie worked at both Eadie's Construction Company, Incorporated and Eadie's Industrial, Incorporated.
15. Both companies were solely owned by Keith Eadie prior to the marriage and are non-marital assets.
16. Dawn Eadie voluntarily stopped working at both companies in March of 2023.
17. Prior to this date, Dawn Eadie, along with the co-defendants, Jordan Jones and Justine Lawson, changed the passwords to various company owned intellectual property; including, but not limited to: Quickbooks, First National Bank, Enterprise Bank, Spinx, Direct TV, Home Telecom, Verizon and the office telephone pin codes.

18. Additionally, they changed their company email passwords on March 27, 2023 and forwarded their emails from Eadie's Construction, Inc. and Eadie's Industrial, Inc to Dawn Eadie's company Eadie's Diva D's Enterprises, LLC.
19. The emails were forwarded as follows: justine@eadiesconstruction.com and justine@eadiesindustrial.com to dawn@eadiesdivad.com; jjones@eadiesindustrial.com to dawn@eadiesdivad.com; and dawn@eadiesconstruction.com to Dawn@eadiesdivad.com.
20. Prior to their departure of Eadie's Construction Company, Inc. and Eadie's Industrial, Inc. Defendants took Plaintiff s' Company job files; including, but not limited to: bank statements, credit card statements, OneDrive documents, locker combinations, personnel files and employee's vacation/sick leave hours.
21. Plaintiffs' Company credit cards, that were not authorized by Keith Eadie, were used to pay various personal items for Justine Lawson, Jordan Jones and Dawn Eadie.
22. Company invoices were not paid, forcing Plaintiffs to incur liens and more fees than were necessary.
23. Defendants changed Plaintiffs' bid jobs account to Defendant Eadie's Diva D Enterprises, LLC to deliberately interfere with Plaintiffs' contracts with third-party companies and circumvent business to Defendant Eadie's Diva D Enterprises, LLC.
24. Defendant Hunter Basco, upon information and belief, assisted Dawn Eadie, Justine Lawson and Jordan Jones with removing Plaintiffs' company property from the office to Defendant Eadie's Diva D Enterprises, LLC.
25. Defendant Kevin Lawson, upon information and belief, charged unauthorized purchases to Napa Auto Parts which caused Plaintiffs' companies to be billed for items that it never received.
26. Defendant Kevin Lawson, thereafter, benefited from the unauthorized purchases with Napa Auto Parts by using his personal credit account at Napa to offset the charges for which Plaintiffs' companies paid for.

27. Defendant Mackel Maleckar, upon information and belief, helped steal Plaintiffs' company computers after the offices had closed for the day, in order to copy all of Plaintiffs' company data to Defendant Eadie's Diva D Enterprises, LLC's computers.

FOR A FIRST CAUSE OF ACTION
(AS TO ALL DEFENDANTS)
Civil Conspiracy

28. The above allegations are repeated and realleged as if contained herein.
29. The Defendants and other unnamed third-parties, worked together to injure Plaintiff businesses by stealing passwords, company files and money from the company in an effort to try to shut down the Plaintiffs' businesses and steal the business for Defendant's Company, Eadie's Diva D's Enterprises, LLC.
30. The Plaintiffs have suffered special damages of legal expenses in an effort to stop the above-referenced unlawful actions from occurring.
31. The Plaintiffs have also suffered loss of a good business reputation due to the lack of payment by Defendants of invoices that were due and owing.
32. Plaintiffs are entitled to and pray for an award of damages against the Defendants and other unnamed third parties for all losses suffered herein, including special damages, as well as an award of punitive damages in an amount deemed sufficient by a jury to impress upon these Defendants the seriousness of their conduct and to deter such similar conduct in the future.

FOR A SECOND CAUSE OF ACTION
(AS TO ALL DEFENDANTS)
Tortious Interference with a Contract

33. The above allegations are repeated and realleged as if contained herein.
34. The Defendants and other unnamed third-parties, worked together to injure Plaintiff businesses by stealing passwords, company files and money from the company in an effort to try to shut down the Plaintiffs' businesses and steal the pending contracts and business for Defendant's Company Eadie's Diva D's Enterprises, LLC.

35. The Plaintiffs have suffered economic damages due to this improper interference of pending and prospective contracts known by Defendants and intentionally subverted to Defendants.
36. The Defendants' conduct led to a breach of these contracts between Plaintiffs and third-parties.
37. Plaintiffs are entitled to and pray for an award of damages against the Defendants and other unnamed third parties for all losses suffered herein, including actual, consequential, incidental and special damages, as well as an award of punitive damages in an amount deemed sufficient by a jury to impress upon these Defendants the seriousness of their conduct and to deter such similar conduct in the future.

FOR A THIRD CAUSE OF ACTION
(AS TO ALL DEFENDANTS)
Conversion

38. The above allegations are repeated and realleged as if contained herein.
39. The Defendants have unlawfully converted Plaintiffs' Company funds for their own use by paying personal bills and receiving Plaintiffs' company money without authorization.
40. Plaintiffs are entitled to and pray for an award of damages against the Defendants and other unnamed third parties for all losses suffered herein, in an amount deemed sufficient by a jury to impress upon these Defendants the seriousness of their conduct and to deter such similar conduct in the future.

FOR A FOURTH CAUSE OF ACTION
(AS TO ALL DEFENDANTS)
Unjust enrichment

41. The above allegations are repeated and realleged as if contained herein.
42. The Defendants have unlawfully converted Plaintiffs' Company funds for their own use by paying personal bills and receiving Plaintiffs' company money without authorization.
43. Plaintiffs are entitled to and pray for an award of damages against the Defendants and other unnamed third parties for all losses suffered herein, in an amount deemed sufficient by a jury to

impress upon these Defendants the seriousness of their conduct and to deter such similar conduct in the future.

WHEREFORE, Plaintiff requests that judgment be entered against the Defendants on all causes of action, and that Plaintiff be awarded actual, incidental, consequential, special and punitive damages, a trial by jury as to all causes of action properly triable, the costs of this action, and any such other and further relief as the Court deems just and proper.

FERRARA LAW FIRM, PLLC

s/ Paul B. Ferrara, III

Paul B. Ferrara, III
8887 Old University Blvd. Ste. 201
North Charleston, SC 29406
T: (843) 569-5511 / F: (843) 569-5411
SC Bar No.: 70511

paul@ferraralawfirm.net
Attorney for Plaintiffs

September 19, 2023
North Charleston, SC

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Respondents,

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KEITH EADIE,

Appellant.

PROOF OF SERVICE

I hereby certified that I have served the Response to Appellants' Motion to Disqualify Steven L. Smith as Counsel for Respondents and Affidavit of Steven L. Smith by emailing a copy to the attorneys for the Appellants as follows:

Thomas A. Pendarvis, Esquire
thomas@pendarvislaw.com

Paul B. Ferrara, III, Esquire
paul@ferraralawfirm.net

Respectfully submitted.

/s/Zachary J. Closser

Steven L. Smith

Zachary J. Closser

Smith | Closser, PA

7455 Cross County Road, Suite 1 (29418)

P.O. Box 40578, Charleston, SC 29423-0578

843-760-0220

ssmith@scnlaw.com

zclosser@scnlaw.com

Attorneys for the Respondents