

# EXHIBIT K

RECEIVED

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT

AUG 22 2011

NEXSEN PRUET, LLC

Stephen Tucker, Jeaneen Tucker, Charles Davis, Stephanie Davis, Timothy Treon, Janie Treon, and P. Jennings Scarce, and John Doe and Jane Doe, individually and on behalf of Others similarly situated in the State of South Carolina,

Plaintiffs,

vs.

LEATH, BOUCH & CRAWFORD, LLP, W. Jefferson Leath, Jr., William Dixon Robertson, III, Michael S. Seekings, Frank E. Grimball, MULLEN WYLIE, LLC formerly MULLEN, WYLIE & SEEKINGS, LLC, William M. Bowen, John Cardamone, Sally Cardamone, Benjamin T. Clark, Diane M. Clark, Ramona Gianni, and Nathan W. Gordon,

Defendants.

CIVIL ACTION NO. 2008-CP-07-3145

**PLAINTIFFS' CONDITIONAL  
STIPULATION FOR CONSENT  
ORDER WITHDRAWING  
CERTAIN PROPOSED CLASS  
REPRESENTATIVES AND  
CLAIM FOR DISGORGEMENT**

Timothy Treon and P. Jennings Scarce, individually and on behalf of Others similarly situated in the State of South Carolina,

Plaintiffs,

vs.

Dryvit Systems, Inc., John Cardamone and his wife, Sally Cardamone, Benjamin T. Clark and his wife Diane M. Clark, Ramona Gianni, and Nathan W. Gordon, John Doe and Mary Roe,

Defendants.

CIVIL ACTION NO. 2008-CP-07-0774

TO: JAMES L. BRUNER, J.D., M. DAWES COOKE, J.D., JOHN ARTHUR JONES, J.D., M. ELIZABETH JOWERS, J.D., SUSAN P. MCWILLIAMS, J.D., WARREN C. POWELL, JR., J.D., KENT T. STAIR, J.D., and SUSAN TAYLOR WALL, J.D., ATTORNEYS FOR DEFENDANTS:

EXHIBIT  
K

### **CONDITIONAL STIPULATION**

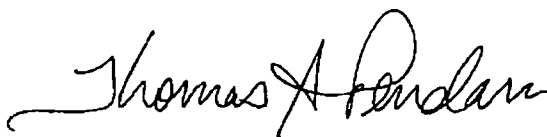
YOU WILL PLEASE TAKE NOTICE THAT as a condition effective in the event the Court grants Plaintiffs' MOTION FOR CLASS CERTIFICATION creating a trial class, and as stated by putative Class Counsel before The Honorable J. Mark Hayes, II during the hearings in Spartanburg on July 21 and July 22, 2011, to which no objections were taken or asserted by counsel for any Defendant, Plaintiffs stipulate to the entry of a Consent Order effecting the following:

1. Plaintiffs, Timothy Treon, Janie Treon, and P. Jennings Scarce, will be withdrawn as Class Representatives and will remain in these cases only as Members of the Plaintiff Class.
2. The withdrawal of Timothy Treon, Janie Treon, and P. Jennings Scarce as proposed Class Representatives in these cases will have no bearing whatsoever on their status as class representatives in the underlying, *Treon, et al. v. Dryvit Systems, Inc.*, 2002-CP-07-1377 lawsuit.
3. As part of the withdrawal of Timothy Treon, Janie Treon, and P. Jennings Scarce as proposed Class Representatives, Plaintiffs propose and stipulate to a revised case style with regard to Case No. 2008-CP-07-0774, in which Stephen Tucker, Jeaneen Tucker, Charles Davis, and Stephanie Davis, are substituted as the named Plaintiffs. In addition regarding Case No. 2008-CP-07-0774, DRYVIT SYSTEMS, INC. will be removed from the style of the case based on the prior dismissal with prejudice of the claims against it.
4. The Class Representatives will withdraw their claim for Disgorgement of all attorney's fees paid to the Defendant Lawyers as asserted in ¶ 65 and

WHEREFORE clause in the AMENDED COMPLAINT for #3145, *i.e.*, attorney's fees paid to or for the benefit of any combination of LEATH, BOUCH & CRAWFORD, LLP; W. Jefferson Leath, Jr.; William Dixon Robertson, III; Michael S. Seekings; Frank E. Grimball; MULLENWYLIE, LLC formerly MULLEN, WYLIE & SEEKINGS, LLC; and William M. Bowen.

Respectfully submitted,

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August 18, 2011

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT

Stephen and Jeaneen Tucker, Charles and  
Stephanie Davis, Timothy and Janie Treon,  
P. Jennings Scarce, and John Doe and  
Jane Doe, individually and on behalf of  
others similarly situated in the State of South  
Carolina,

Plaintiffs,

vs.

LEATH, BOUCHE & CRAWFORD, LLP, W.  
Jefferson Leath, Jr., William Dixon  
Robertson, III, Michael S. Seekings, Frank  
E. Grimball, MULLEN WYLIE, LLC formerly  
MULLEN, WYLIE & SEEKINGS, LLC, William M.  
Bowen, John Cardamone, Sally Cardamone,  
Benjamin T. Clark, Diane M. Clark, Ramona  
Gianni, and Nathan W. Gordon,

Defendants.

CIVIL ACTION NO. 2008-CP-07-3145

**CERTIFICATE OF  
SERVICE**

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Timothy Treon and P. Jennings Scarce  
individually and on behalf of Others similarly  
situated in the State of South Carolina,

Plaintiffs,

vs.

Dryvit Systems, Inc. John Cardamone and  
his wife, Sally Cardamone, Benjamin T.  
Clark and his wife Diane M. Clark, Ramona  
Gianni, and Nathan W. Gordon, John Doe  
and Mary Roe,

Defendants.

CIVIL ACTION NO. 2008-CP-07-0774

I, Jennifer A. Clark, paralegal for Pendarvis Law Offices, PC, hereby certify that I have served the document listed below upon all counsel of record by mailing a copy of same, postage prepaid and return address clearly indicated on said envelope, to said counsel at the following addresses:

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**Documents Served:**

PLAINTIFFS' CONDITIONAL STIPULATION FOR CONSENT ORDER WITHDRAWING CERTAIN  
PROPOSED CLASS REPRESENTATIVES AND CLAIM FOR DISGORGEMENT

*Jennifer A. Clark*

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Jennifer A. Clark

Beaufort, South Carolina

August 18, 2011