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August 27, 2013

RECEIVED

AUG 27 2013

S.C. Supreme Court

VIA HAND-DELIVERY

The Honorable Daniel E. Shearouse
Supreme Court of South Carolina
1231 Gervais Street
Columbia, SC 29201

RE: 1634 Main, L.P. v. Shirley Hammer a/k/a Shirley Grace Hightower v. Howard Hammer
Appellate Case No. 2013-001634

Dear Mr. Shearouse:

Enclosed and in connection with the above-referenced matter please find the original plus seven copies of the **MOTION OF 1634 MAIN L.P., PLAINTIFF/APPELLANT TO STRIKE OR DISMISS MOTION FOR CERTIFICATION, CONSOLIDATION AND TO EXPEDITE OR IN THE ALTERNATIVE TO FILE RETURN BRIEF OUT OF TIME**, along with a Proof of Service and check in the amount of \$25.00 to cover the filing fee. Please file the original plus six copies and clock-stamp the seventh copy to be returned to our office via our courier.

If you have any questions please let me know. Thank you in advance for your assistance in this matter.

Yours very truly,



Susan Batten Lipscomb

Enclosure

cc: The Honorable Jenny A. Kitchings
Arthur K. Aiken, Esquire
Howard Hammer, Esquire
Desa Ballard, Esquire
Stephanie Weissenstein, Esquire

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AUG 28 2013

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge George James, Jr., Circuit Court Judge
James F. Barber, Supervising Circuit Court Judge
Case No. 2010-CP-40-2889

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SC Court of Appeals

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S.C. Supreme Court

Pending before the South Carolina Court of Appeals
Appellate Case No. 2013-001634

1634 Main, L.P. Plaintiff/ Appellant

v.

Shirley Hammer a/k/a Shirley Grace HightowerDefendant and Third Party
Plaintiff/Respondent

v.

Howard Hammer.....Appellant/Additional
Defendant on Counterclaim/Appellant

**MOTION OF 1634 MAIN L.P., PLAINTIFF/APPELLANT TO STRIKE OR
DISMISS MOTION FOR CERTIFICATION, CONSOLIDATION AND TO
EXPEDITE OR IN THE ALTERNATIVE TO FILE RETURN BRIEF OUT OF
TIME**

Plaintiff/Appellant, 1634 Main, L.P., hereby moves the Court to Strike or Dismiss the Motion for Certification, Consolidation and to Expedite filed Defendant and Third Party Plaintiff/Respondent by Respondent Shirley Hammer (hereafter Ms. Hammer) or in the alternative for an Order permitting it to file a Return Brief out of time. The underlying facts and grounds for the Motion are as follows:

After trial, the Honorable George C. James, Jr. issued an Order dated January 28, 2013, filed January 29, 2013. Motions to reconsider were served and filed, and Defendant and Third Party Plaintiff Shirley Hammer Made a Motion for Sanctions.

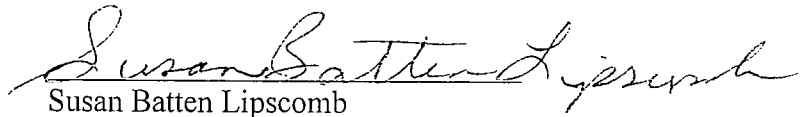
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Judge James then issued an Order Addressing Post-Trial Motions and the Motion for Sanction dated June 3, 2013, filed June 6, 2013. Plaintiff/Appellant, 1634 Main L.P. received written notice of the entry of the Order on July 9, 2013, as to Plaintiff/Appellant 1634 Main, L.P. Plaintiff/Appellant 1634 Main, L.P. filed Notice of Motion and Motion to Reconsider, Alter, Amend or Modify as to the Order filed June 6, 2013, and thereafter filed a Notice of Appeal. On July 31, 2013, Plaintiff/Appellant 1634 Main L.P. made a Motion to Remand requesting an Order remanding the Plaintiff/Appellant 1634 Main, L.P.'s appeal to the lower court in order for it to hear and issue an Order on the Motion to Reconsider, Alter, Amend or Modify. By letter dated Wednesday, July 31, 2013, Attorney for Ms. Hammer sent a letter consenting to the Motion for Remand by Plaintiff/Appellant 1634 Main, L.P. A copy of the Letter is attached.

On August 1, 2013, Ms. Hammer filed a Motion for Certification, Consolidation and to Expedite the appeal of 1634 Main, L.P. with a separate case not involving Plaintiff/Appellant 1634 Main, L.P. Since there is a pending Motion to Remand and consent to the Motion, it is respectfully submitted Ms. Hammer's Motion is premature and should be dismissed until after remand and the issuance of an Order of the lower Court. In the event this Motion to Strike or Dismiss Motion for Certification, Consolidation and to Expedite is not granted, Plaintiff/Appellant, 1634 Main, L.P., moves the Court for permission to file a Return Brief out of time.

(Signature on following page)

Respectfully submitted,

A handwritten signature in cursive script that reads "Susan Batten Lipscomb". The signature is written in black ink and is positioned above the typed name.

Susan Batten Lipscomb
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1634 Main Street, Suite 200
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Counsel for Plaintiff/Appellant 1634 Main, L.P.

August 27, 2013

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge George James, Jr., Circuit Court Judge
James F. Barber, Supervising Circuit Court Judge
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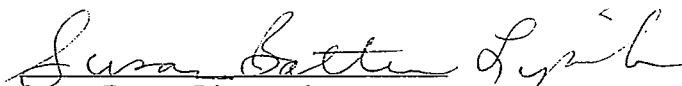
Howard Hammer.....Appellant/Additional
Defendant on Counterclaim/Appellant

PROOF OF SERVICE

I, Susan Batten Lipscomb, attorney for Plaintiff/Appellant, 1634 Main, L.P., do hereby certify that on August 27, 2013, MOTION OF 1634 MAIN L.P., PLAINTIFF/APPELLANT TO STRIKE OR DISMISS MOTION FOR CERTIFICATION, CONSOLIDATION AND TO EXPEDITE OR IN THE ALTERNATIVE TO FILE RETURN BRIEF OUT OF TIME was served on counsel of record by placing a copy thereof in the United States Mail, postage prepaid, addressed as set forth below:

Desa Ballard, Esquire
Stephanie Weissenstein, Esquire
Law Offices of Desa Ballard
226 State Street
West Columbia, SC 29169

Howard Hammer, *pro se*
1609 Catawba Street
Columbia, SC 29205


Susan Batten Lipscomb