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SEP 26 2013

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Paul M. Turch
Circuit Court Judge

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

RESPONDENT'S REPLY TO PETITIONER'S PETITION FOR REHEARING

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
Corporation are theRespondents.

and

Kevin Key and Sandra Key,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.

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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 Petition for Rehearing:

I The Record on Appeal Does Support the Factual Conclusions That Respondents Secured Workers Compensation Coverage.

This court correctly found that there is sufficient evidence in the record on appeal to support that Bayshore Corp. and Bayshore SC secured Worker's Compensation coverage and therefore are immune to tort liability. The record sufficiently shows that Respondents secured Worker's Compensation coverage from Travelers Insurance Company. Petitioners have simply failed to raise any evidence to support their position

that Respondents did not secure Worker's Compensation coverage.

Petitioner's argument in that Respondents did not secure Worker's Compensation coverage appear to be based on a statement by Keith Colonna, to the effect that Respondents had secured Worker's Compensation coverage, but had not directly done so for Petitioners. Petitioners' reliance on this argument underscores their misunderstanding of Worker's Compensation insurance. Respondents clearly had secured Workers Compensation coverage. If Petitioners were statutory employees of Respondents, which this Court unanimously agrees upon, then Respondents Worker's Compensation policy would have covered petitioners. Employers, in general, do not obtain specific Worker's Compensation coverage for specific employees.

In fact this court correctly raised that the petitioners did not *directly* contest lack of coverage before the circuit court. At the trial court, the Petitioners focused only on their interpretation of the above Colonna quotation and did not provide any direct evidence to dispute Richard Stadler's affidavit that Respondents had secured coverage. Underscoring this Court's position that the Petitioners did not preserve this issue at the trial court level is the fact that Petitioners now claim they never received a copy of the insurance policy when discovery responses exchanged between the parties clearly show the contrary. See Exhibits A-D. Had Petitioners not received a copy of the policy at the trial court level, which is clearly untrue, Petitioners would have raised this at the trial court level.

Petitioners were fully aware that Respondents provided sufficient evidence that they secured a Worker's Compensation policy that covered the Petitioners. If Petitioners had concerns about the validity of that evidence, they had the opportunity to address their concerns through discovery at the trial court level and failed to do so, and they cannot now

be heard to complain. Therefore, petitioners' petition for rehearing should be denied.

II This Court Correctly Ruled That Respondents Satisfied the Requirements of South Carolina Code Section 42-5-20.

Petitioners provide no basis for their assertion that South Carolina Code Section 42-5-20 requires any more proof than the evidence which was submitted in the record on appeal in this case. This court correctly ruled that the respondents had secured Worker's Compensation coverage through their insurer Travelers Insurance Company. Any documentation that needed to be provided to the Worker's Compensation commission was, in fact, the insurer's responsibility to do so. Respondents never deposed Richard Stadler or any representative from Travelers Insurance Company to determine the contrary.

Moreover, Petitioners never raised, at the trial court level, their contention that Respondents failed to comply with South Carolina Code Section 42-5-20. Petitioners only raised at the trial court level that petitioners failed to comply with South Carolina Code Section 42 -1-415(B), which this court correctly ruled is not applicable in this case. Therefore Petitioner's petition for rehearing must be denied.

III this court appropriately reviewed the record on appeal under the appropriate legal standard and the case should not be remanded.

Petitioners incorrectly cite the case of Anderson v. Anderson, 299 S.E. 110, 114, 382, S.E.2d 897 (1989), for the proposition that this case should be remanded. The cited portion of the Anderson case, which Petitioners rely upon, applied only to a partition action, and, therefore, is not applicable.

In matters where the trial court has made a final determination upon the applicability of workers compensation exclusivity, that an employer is immune from liability as a statutory employer, or upon the jurisdiction of the Workers' Compensation Act, the question on appeal is one of law and the court reviews the entire record and decides the jurisdictional facts in accord with the preponderance of the evidence. See Cooke v. Palmetto Health Alliance, 367 S.C. 167, 172-173, 624 S.E.2d 439, 441 (S.C.App. 2005). Therefore, petitioners' petition for rehearing should be denied.

IV This Case Should Not Be Remanded Since The Petitioners Consented to the Motion to Determine Worker's Compensation Exclusivity, Without a Full Trial, and With the Discovery Which Had Been Completed.

Pursuant to Judge John's Order of April 19, 2007, Petitioners consented to for a motion to determine Worker's Compensation exclusivity/jurisdiction. (ROA 6-9). Further Petitioners consented to the presentation of evidence by way of affidavits, deposition testimony, and applicable records or documents. At no time did Petitioners object to the motion hearing and the agreed upon presentation of evidence on the basis that discovery was not completed or that they would not have a trial on workers compensation exclusivity. Therefore, they have failed to preserve any such argument.

Further, Judge Burch cited in his order of July 19, 2007, that the, "parties have asked this Court to make a final determination on the merits" regarding the employer/employee relationship and workers compensation exclusivity. (ROA 10-17). Therefore, Petitioners' petition for rehearing should be denied.

V. This Court Used The Appropriate Standard in a Motion to Dismiss For Lack of Subject Matter Jurisdiction.

As stated above, the Petitioners consented to an evidentiary hearing for the Circuit Court to make a final determination on Respondent's Motion to Dismiss for Lack of Subject Matter Jurisdiction. (ROA 6-17). Therefore, the trial court, the Court of Appeals, and subsequently this Court have the right to review the Record presented to it under a de novo standard in order to determine the employment relationship between the parties and the application of the Worker's Compensation exclusivity doctrine to petitioner's claims against respondents. Therefore, Petitioners' petition for rehearing should be denied.

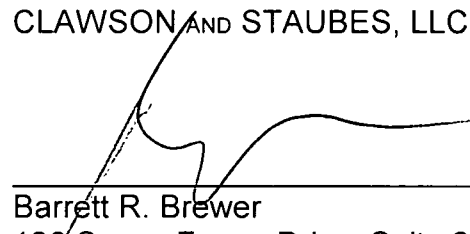
VI. This Court Correctly Applied the Monroe v. Monsanto Factors to Respondents.

This court correctly identified the factors to apply in its analysis that Respondents were one economic entity pursuant to *Monroe v. Monsanto*, 531 F. Supp. 426 (D.S.C. 1982). This Court correctly found the preponderance of the evidence supports a finding the Bayshore Corp. and Bayshore SC are immune from tort liability since, under the Monroe v. Monsanto analysis, the Petitioners were performing the work of both Bayshore SC and Bayshore Corp. Therefore, Petitioners' petition for rehearing should be denied.

CONCLUSION

For the reasons set forth above, Respondents respectfully request This Court deny Petitioner's Petition for Rehearing and grant such other relief as is just and equitable.

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
September 24, 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-26-8824

Plaintiff,)

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

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.)

KEVIN KEY and SANDRA KEY,)

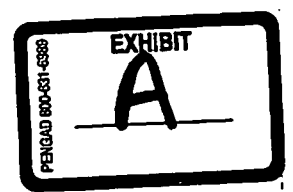
CASE NO.: 03-CP-26-6825

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
Post Office Box 12009
Charleston, SC 29412
(843) 795-7800

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

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 / SOUTH
CAROLINA, INC.

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

Defendants.)



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

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.

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 Kernodle, 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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RESPONSE:

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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
Post Office Box 13897
Charleston, SC 29422-3897
(843) 795-7800

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/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
Vendeenter 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.)

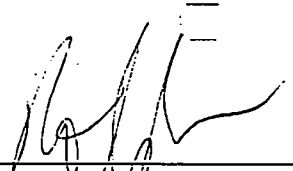
BAYSHORE CONCRETE)
PRODUCTS/SOUTH CAROLINA,)
INC., BAYSHORE CONCRETE)
PRODUCTS CORPORATION,)
SKANSKA AB, SKANSKA USA)
CIVIL, INC., BEERS SKANSKA,)
SKANSKA USA BUILDING, INC.,)
SKANSKA PROJECT)
DEVELOPMENT USA, TIDEWATER)
SKANSKA GROUP, INC.,)
TIDEWATER SKANSKA, INC.,)
and SKANSKA USA, INC.,)
Defendants.)

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.



Christopher W. Nickels, Esquire
Barrett R. Brewer, Esquire
CLAWSON & STAUBES, LLC
126 Seven Farms Drive, Suite 200
Charleston, SC 29401
(843) 577-2026

Henry P. Bouffard, Esquire
VANDEVENTER BLACK, LLP
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

V. Clark

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)

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.)

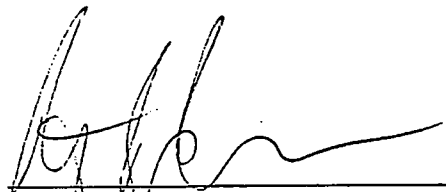
TO: CHRISTINE COMPANION VARNADO and ROBERT B. VARNADO,
Attorneys for the Plaintiffs:

The Defendants above named, responding to the 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.



Christopher W. Nickels, Esquire
Barrett R. Brewer, Esquire
CLAWSON & STAUBES, LLC
126 Seven Farms Drive, Suite 200
Charleston, SC 29401
(843) 577-2026

Henry P. Bouffard, Esquire
VANDEVENTER BLACK, LLP
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

V. Clark

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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

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

**CERTIFICATE OF SERVICE TO 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
Corporation are theRespondents.

and

Kevin Key and Sandra Key,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.

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.

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:

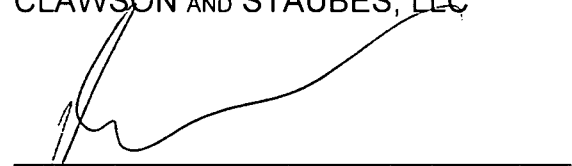
Christine Companion Varnado, Esquire
Jason Scott Luck, Esquire
SEIBELS LAW FIRM, P.A.
127 King Street, Suite 100
Charleston, SC 29401
Telephone: (843) 722-6777
Fax: (843) 722-6781

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, with a large initial "B" and "R".

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

Attorney for the Respondents

Charleston, South Carolina
September 24, 2013