

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

Case No. 2006-CP-40-1814

Lauren Proctor and Trans-Union National
Title Insurance Company *f/k/a* Atlantic
Title Insurance Company,

Respondents,

v.

Whitlark & Whitlark, Inc. d/b/a Rockaways
Athletic Club and Pizza Man, Forrest
Whitlark, Paul Whitlark, Charlie E. Bishop,
and Brett Blanks,

Appellants.

SUPPLEMENTAL RECORD ON APPEAL

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SC Court of Appeals

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TRANSCRIPT:

Deposition of Lauren Proctor pages: 57, 58, 76, 107, 108, 114, 115, 145, 170

dated August 28,2007SR 1

Transcript of the Testimony of
LAUREN PROCTOR

Date: August 28, 2007

CREEL COURT REPORTING, INC.
Condensed Transcript and Word Index

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1 Q: And then, well, let me, so let's go back to, I
 2 guess, starting when you first began playing on
 3 video poker machines. Do you remember when you
 4 first began playing video poker machines?
 5 A: I don't, I couldn't answer that. I don't know.
 6 Q: Okay. Do you remember when you first played
 7 video poker machines at Rockaway's?
 8 A: I don't know. I mean, I played, I can tell you
 9 that I played before it was illegal and after
 10 it was illegal, and I can't remember how long
 11 before. I couldn't tell you that.
 12 Q: How long have you been going to Rockaway's?
 13 A: That's about the same question, and I don't, I
 14 can't tell you. You can phrase it every which
 15 way you want. I don't know.
 16 Q: Well, in my mind they were two different
 17 questions. One was how long have you been
 18 playing ...
 19 A: Well, I mean, I didn't ...
 20 Q: ... video poker at Rockaway's ...
 21 A: ... go there when I wasn't playing video poker.
 22 Q: Well, that helps us.
 23 A: There you go. Okay. I'm sorry.
 24 Q: So when you went to Rockaway's for the very
 25 first time, or shortly thereafter, you started

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1 playing video poker machines?
 2 A: Pretty much.
 3 Q: At Rockaway's?
 4 A: Yeah. Half of that business was video poker
 5 back then.
 6 Q: Okay. And when you went to Rockaway's and
 7 started playing video poker, had you played in
 8 other places before you went to Rockaway's?
 9 A: Yeah. I had played down at Jim Casey's.
 10 That's before it was Jim Casey's. It was The
 11 Keg. I played there some before that.
 12 Q: Okay.
 13 A: Yeah.
 14 Q: And then at some point in time, and I think the
 15 record will speak for itself, but I'd say end
 16 of June of 2000, that video poker as we know it
 17 became unlawful in South Carolina?
 18 A: Right.
 19 Q: And after that, do you recall a period of time
 20 when the poker machines were taken out of
 21 Rockaway's?
 22 A: When it went illegal, I was going there and
 23 playing, you know, beforehand. So the machines
 24 were taken out, and at that point we had a
 25 little group that would go there. I think on

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1 Thursday nights and get something to drink, a
 2 bunch of girls, girls night out, and it wasn't
 3 long because I went in there, and that's when,
 4 I think it was Graham told me that Forrest said
 5 to show me a machine that he had that paid out.
 6 And I had gotten video poker off my mind at
 7 that point. And he took me over there and put
 8 money in it for me, and I started playing it.
 9 Pretty much any time I tried to back off or if
 10 I got angry, Forrest would do what you call
 11 setting up the machine and call me on the phone
 12 and tell me to come play. And then that, there
 13 again, I'd get addicted, and it would just all
 14 start rolling again because I would go up there
 15 like an idiot. But ...
 16 Q: Well, the machine that Graham showed you, do
 17 you remember what kind it was?
 18 A: It was a Monkey machine.
 19 Q: A Monkey?
 20 A: I think Tarzan or something. It sat in
 21 Rockaway's by the bar. When you first come in
 22 the back door, it was right there on the
 23 counter.
 24 Q: Was it the only machine they had?
 25 A: I don't remember any other machine at that

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1 point in that bar that ... I don't know what
 2 they had at Pizza Man because I didn't know too
 3 much about Pizza Man until Rockaway's burned
 4 down. Then I would go over there more, and
 5 they had the machines over there, too.
 6 Q: Okay. Now, this Tarzan machine, as best you
 7 recall, I mean, what do you recall Graham
 8 telling you about the Tarzan machine?
 9 A: I don't remember how it paid out. I don't
 10 remember if it was a quarter point or a penny
 11 a point. I can't remember, but he showed me
 12 how to use it and showed me that it pays out.
 13 Basically, you put the money in, and you build
 14 your points up to a certain amount. And I know
 15 this sounds like I'm an idiot, but I don't
 16 remember. Some of them were a quarter, some
 17 were a nickel, some were a penny.
 18 Q: Right.
 19 A: A point, you know. And so he showed me that it
 20 pays out, you know, so that's when I started
 21 back gambling at Rockaway's because at that
 22 point, they were the only ones that had any
 23 illegal machines that I knew of.
 24 Q: And did you, I mean, that's my question. Did
 25 you play on the machine and get pay-outs?

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1 \$1,500, you're not real happy. So you keep
 2 playing.
 3 Q: Right.
 4 A: Yeah, I could say that happened on occasions.
 5 Q: And on the pool ball game, what is the, say, if
 6 \$7.50 is the highest bet you could on any one
 7 hand, what's the most ...
 8 A: You could win?
 9 Q: Yeah.
 10 A: \$1,500.
 11 Q: Okay. And you'd won that more than once?
 12 A: Yeah.
 13 Q: Okay.
 14 A: And, again, you used the word "win". Usually
 15 I was paying a tab or something like that, so
 16 you're never ahead. At one point I had an
 17 \$18,000 tab with him, so that's kind of hard to
 18 be winning at any point.
 19 Q: What happened to that \$18,000 tab?
 20 A: Forrest set me up one time, and I put that
 21 money towards it, and then I had to continue to
 22 pay it down.
 23 Q: What do you mean he set you up one time?
 24 A: Well, that's when I'd got mad and I quit going,
 25 and he'll put money in the machine and call me

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1 to come play. And instead of playing, I cashed
 2 it out and put it on my tab. I can't remember
 3 exactly how much it was, but I paid that, and
 4 then I paid it down, and I think even some of
 5 that FBI money paid some on it.
 6 Q: Okay. At the end of the day when you stopped
 7 playing, was there a tab outstanding? To
 8 Rockaway? I mean, ...
 9 A: You mean ... I'm sorry.
 10 Q: ... a ledger, that you had ... I mean, you said
 11 at one point in time it was up to \$18,000.
 12 A: Right.
 13 Q: I guess my question is, where was it when you
 14 stopped playing at the end of ...
 15 A: Oh, God. I couldn't tell you. Maureen would
 16 know that. I think she did the books for him.
 17 Q: Maureen?
 18 A: Yeah. Maurcen, their accountant.
 19 Q: Okay.
 20 A: I think Forrest said she kept the bag.
 21 Q: I've been given a lot of records from your
 22 lawyers, and in the, say, and they're broken
 23 down by bank accounts. They're not ...
 24 Carolina First account. I'll just pick out one
 25 right quick. Let me find one. I'm going to

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1 show you just, and I'll just state for the
 2 record it's a State Title Company check on
 3 First Citizens [sic] account, check number ...
 4 MR. PACELLA: Carolina First.
 5 Q: Carolina First.
 6 MR. PACELLA: First Citizens is the deposit, where it
 7 was deposited.
 8 Q: ... 5879.
 9 A: Uh-huh (affirmative response).
 10 Q: And it's to you. It says Lauren Proctor in the
 11 amount of \$1,100.
 12 A: Uh-huh (affirmative response).
 13 Q: And this check, whose ... is that your
 14 signature?
 15 A: Uh-huh (affirmative response). Yes, sir.
 16 Q: Are you signing your name?
 17 A: Yes, sir.
 18 Q: Okay. And did you have check-writing authority
 19 on the State Title account?
 20 A: Yes, I did.
 21 Q: Okay. And then it says on the back here it's
 22 got 237 Five Points.
 23 A: Yeah. That's the Carolina First in Five
 24 Points.
 25 Q: And that's ... okay.

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1 A: Yeah. I would cash it there.
 2 Q: So you would just take it there and cash it?
 3 A: Cash it.
 4 Q: Okay. And those were not deposited, they were
 5 just cashed?
 6 A: They were cashed, yeah.
 7 Q: And what did you do with the money?
 8 A: Pizza Man.
 9 Q: So your testimony, say this \$1,100 went to
 10 Pizza Man?
 11 A: (Nods head affirmatively.)
 12 Q: That's yes?
 13 A: That's yes, yes, sir.
 14 Q: Okay. Now, how do you know that?
 15 A: Because that's why I went down to Carolina
 16 First and cashed checks was to go gamble, or to
 17 pay a tab.
 18 Q: Well, do you know for sure that's what you did
 19 with it, or that's what you think you did with
 20 it?
 21 A: I feel pretty confident. That's the only
 22 reason I went down there to cash checks.
 23 Q: And a lot of these State Title checks have that
 24 same ...
 25 A: Right. Yeah. A lot of them ...

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1 A: Yeah. \$600.
 2 Q: Okay. And what was that check for?
 3 A: Probably paying back a debt or gambling. I
 4 don't think I ate that much pizza. That was
 5 free anyway.
 6 Q: And, again, there are a number of these checks
 7 in here for Ashley Courie?
 8 A: Yeah.
 9 Q: And those are ...
 10 A: She would, I would have her go down and cash
 11 checks for me.
 12 Q: And did she do drugs with you?
 13 A: Yeah. Ashley did drugs. But I had to back off
 14 from Ashley. She was a little crazier than I
 15 was.
 16 Q: Did she buy drugs for you?
 17 A: Yeah, on occasion she did.
 18 Q: Did she buy drugs for you on monies that, from
 19 these cashed checks?
 20 A: That's hard to say. But on occasion, I think
 21 Ashley would get me some from her little guy
 22 down the street from the office. But I don't
 23 know, I couldn't tell you which or how, where
 24 the money came from. It was usually getting it
 25 out of my account or whatever and giving it to

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1 her, but all that money's mish-mashed anyway,
 2 so it's hard to say. I didn't cash for that
 3 purpose.
 4 Q: Now, if all this money represented by all these
 5 checks was lost at Pizza Man gambling, and you
 6 and Deborah Mitchell are making just enough
 7 money from your salary to make ends meet, to
 8 pay the mortgage, the light bill, the
 9 insurance, feeding 17 pets and vet bills, where
 10 is the money coming from to buy the drugs?
 11 A: You've got to remember something. You're still
 12 looking at \$100,000-plus that's missing. Okay?
 13 So if you took the whole \$800,000, \$750,000,
 14 \$800,000 and you took probably 95 percent of
 15 that, it went to Pizza Man. The other five
 16 percent might have gone to drugs. Okay? You
 17 can't do it by this because this isn't all the
 18 money. I want you to understand that
 19 everything I wrote out of that account, less
 20 maybe 94, 95 percent, was to Pizza Man. But I
 21 can't, you can't look at that and say, "How do
 22 you know all this was ...," because that isn't
 23 all of it. Other money was taken. So if you
 24 take the full thing, then yes, maybe 95 percent
 25 of it went to Pizza Man and five of it to

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1 drugs. Because, you know, that's ... I can't
 2 do it by this because that's not all the money
 3 that's missing.
 4 Q: Well, let's break it down then. What we've
 5 been given are checks from the checking account
 6 of, the Carolina First account, and I think
 7 we've been given checks made payable to
 8 Treasurer, Stella Kelly, Rockaway's, Pizza Man.
 9 There's, you know, there's a breakdown of
 10 checks to Deborah Mitchell of \$6,800, Stella
 11 ...
 12 A: \$6,800? You can bump that off if you want to.
 13 Q: Okay. So that money was ...
 14 A: I just think you're being a little ... you're
 15 not understanding what I'm telling you. Okay.
 16 Q: Checks to Stella Kelly for \$17,860.
 17 A: They went to Pizza Man.
 18 Q: Checks to Lauren Proctor for \$83,700.
 19 A: Went to Pizza Man.
 20 Q: Checks to Dennis Constantino for \$1,100.
 21 A: Dennis would cash them for me on the weekends,
 22 and yes, most of that went to Pizza Man.
 23 Q: Now, who is Dennis?
 24 A: Dennis owned Gamecock Country.
 25 Q: And he had a machine in the back of his store?

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1 A: He did for a little while.
 2 Q: And you're writing him checks to cash ...
 3 A: He would cash them for me.
 4 Q: ... so you could go to Pizza Man?
 5 A: Yes.
 6 Q: Why wouldn't Pizza Man cash them for you?
 7 A: Because sometimes Forrest wouldn't be there,
 8 and they wouldn't cash checks without Forrest's
 9 approval.
 10 Q: And then there's \$1,500 from that same account
 11 to Gamecock.
 12 A: Uh-huh (affirmative response).
 13 Q: Now, what is that?
 14 A: That's Gamecock Country. That's the same
 15 thing. Dennis would cash them for me.
 16 Q: So you could go to Pizza Man?
 17 A: Yeah.
 18 Q: And why would he do that?
 19 A: Because they wouldn't cash them for me if
 20 Forrest ... Dennis will tell you that's what he
 21 did. He was sitting right there.
 22 Q: He was sitting where? At Pizza Man?
 23 A: He was sitting there when they said they
 24 couldn't cash checks, and Dennis would say,
 25 "I'll do it for you."

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1 don't remember the circumstances of this, so I
 2 couldn't tell you.
 3 Q: Well, just in August of '05, there's \$250 and
 4 \$340; that would be \$590. There's another
 5 \$200; that would be \$790. There's another
 6 \$110, so \$890, \$900. There's \$600 that went to
 7 Debbie, cash. We don't know what that was for,
 8 but you put that ... \$1,500, and then we've got
 9 another \$425 would be \$1,900, and another \$150.
 10 We're up to \$2,000. Another \$350. We're up to
 11 \$2,300 in one month. Another \$220, so \$2,500
 12 in the month of August. Another \$450. \$3,000.
 13 And that's just in cash and checks to
 14 Rockaway's, \$3,000 in the month of August, and
 15 you'd stopped taking money from ...
 16 A: Yeah. That went down in July of 2005. I can't
 17 tell you. I don't remember anything about the
 18 circumstances.
 19 Q: Where that money came from?
 20 A: No, sir, I don't. I sure don't. Didn't come
 21 from cashing, you know, one of Walt's checks
 22 because that was all done by then. I just
 23 don't remember. I don't remember. I do know
 24 that Debbie was working.
 25 Q: Well, when you came clean with Walt, did you,

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1 were you flat broke, you personally?
 2 A: (Nods head affirmatively.)
 3 Q: That's a yes? You're nodding your head.
 4 A: Yes, sir. I'm sorry.
 5 Q: So this couldn't have been some leftover money
 6 from Walt?
 7 A: No, sir. There wasn't any leftover money from
 8 Walt.
 9 Q: So it would have had to have been money that
 10 came in the door some way or another?
 11 A: I don't remember. I really don't.
 12 Q: Okay. Who is Nathan Mason?
 13 A: He did some work on our porch.
 14 Q: There's another check 1480, April 10, 2001.
 15 It's to Wal-Mart and you put an X as to Deborah
 16 Mitchell, correct?
 17 A: Yeah, that's correct.
 18 Q: And this 1481, April 10th, 2001, to Cantz (ph)?
 19 I'm not sure what ...
 20 A: I don't know what that is, but yeah, that's her
 21 signature.
 22 Q: Then 2388, that's the check number, December
 23 22nd, 2004, \$200 payment to Time Warner?
 24 A: Uh-huh (affirmative response).
 25 Q: Was that your basic Time Warner bill, \$200 a

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1 month?
 2 A: That's probably two months.
 3 Q: So it's roughly \$100 a month?
 4 A: Yes, sir.
 5 Q: I'm through with all these checks. Now, you
 6 don't remember exactly when you went to the
 7 FBI, but ...
 8 A: I don't.
 9 Q: And it would appear from ...
 10 A: It seems like it started in, as far as the,
 11 seems like it was September. I don't remember.
 12 I don't remember. I talked to them, and then
 13 it took a while to get the other part going.
 14 I can't remember.
 15 Q: Okay.
 16 A: But I know Robert would know.
 17 Q: Robert Hood?
 18 A: Yeah.
 19 Q: What I want to do is try to follow the money
 20 from Walt's trust account, and I started this
 21 entier and I stopped. And what I've gotten
 22 here is the State Title Carolina First account,
 23 and so some of the money that came out of
 24 Walt's trust account, did it go to State Title?
 25 A: Yes. Yes. Uh-huh (affirmative response).

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1 Q: Okay. And then we have this South Carolina
 2 State Credit Union account that we just went
 3 through with Deborah Mitchell, and some of the
 4 money that came out of Walt's trust account
 5 went into that, correct?
 6 A: That's correct. Yes, sir.
 7 Q: We've been given a South Trust account ...
 8 A: That's the second mortgage.
 9 Q: And that's the second mortgage on ...
 10 A: Line of credit, yes, sir.
 11 Q: ... Debbie Mitchell's house?
 12 A: Yes, sir.
 13 Q: Okay. Is that house owned by, was it owned, is
 14 it owned by you and Debbie, or is it just
 15 Debbie?
 16 A: Just Debbie.
 17 Q: Okay. And the money in that account, were the
 18 checks written off of that, second mortgage?
 19 I mean, I've got copies of the checks.
 20 A: Yes. Yeah, they were.
 21 Q: And then you would pay the ...
 22 A: Walt's check would pay that down, and then I'd
 23 write a check to Pizza Man or Rockaway's from
 24 the second mortgage account.
 25 Q: So Walt's check would go directly to South

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<p>1 A: No, sir. No, sir. 2 Q: ... mainlining ... 3 A: No, sir. 4 Q: ... all the stuff I see on TV? 5 A: No, sir. 6 Q: And no crack cocaine? 7 A: No, sir. 8 Q: No other drugs, marijuana? 9 A: No, sir. 10 Q: Pills, painkillers, anything? 11 A: No, sir. 12 MR. PACELLA: Just clear, you're being in the time 13 frame we're ... 14 A: Yeah. 15 MR. PACELLA: ... the time frame that the lawsuit 16 carries, not 20 years ago? 17 MR. GRIFFIN: That's correct. 18 Q: Yeah. Just during this period of time. 19 A: No, sir. 20 Q: Do you know who Sam Bray is? 21 A: I do, yes, sir. 22 Q: Who is that? 23 A: A good friend of Sam ... I mean, of John's and 24 myself. 25 Q: John who?</p>	<p>1 money, yeah. But, you know, that's kind of 2 hard ... I would say yes, I have, but how I 3 would break it down, I don't know. 4 Q: But do you agree that your take-home pay and 5 Debbie's take-home pay ... 6 A: We were very poor. 7 Q: Basically making ends meet? 8 A: Right. And on occasion my aunt would help. 9 Q: So any disposable money you had to buy drugs, 10 to gamble, if it didn't come from your aunt, 11 then it was stolen? 12 A: Yeah. 13 MR. GRIFFIN: I'm going to take a break. 14 MR. PACELLA: Sure. 15 (Break taken 6:34 p.m. until 6:39 p.m.) 16 Q: Ms. Proctor, I want to go back, when you're 17 playing at Pizza Man. 18 A: Okay. 19 Q: And I, you know, talking with my co-counsel and 20 I just don't want to leave here with a mis- 21 impression, I just want to understand what 22 you're saying, that Debbie Mitchell never sat 23 with you ... 24 A: No, I didn't say that. 25 Q: ... for hours on end?</p>
Page 170	Page 172
<p>1 A: Gaskin, from earlier, yeah. 2 Q: Did you ever buy anything from him? 3 A: Did I ever buy anything from him? No, sir. 4 Q: How about Kathy Siokos, S-I-O-K-O-S? 5 A: (No response.) 6 Q: Do you know who that is? 7 A: Yeah. Kathy. She owns Utopia, yeah. 8 Q: And what's your ... 9 A: She worked at Pizza Man for a while. 10 Q: Did you ever buy drugs from her? 11 A: I might have once or twice. 12 Q: Let me ask you, from, I guess, let's just start 13 in 2000, summer of 2000, June 31st or 30th, how 14 many ever days June has, when video poker 15 became illegal in South Carolina. 16 A: Uh-huh (affirmative response). 17 Q: From that date forward, did you ever gamble 18 with your money, that wasn't ... 19 A: That's hard to say. 20 Q: ... that wasn't stolen? 21 A: That's hard to say. 22 Q: Why is that hard to say? 23 A: Well, because you see how intermingled it is. 24 I mean, I think on occasion I've cashed my 25 paycheck and gone straight there and played my</p>	<p>1 A: Not hours on end that I recall, no, but she 2 would sit with me. 3 Q: She sat with you for hours at a time, did she 4 not? 5 A: An hour? She didn't stay very long, okay? 6 Normally, Debbie didn't stay very long, so I 7 don't know how many hours you're talking about. 8 Did she stay with me all night and gamble up to 9 the wee hours? No. But Debbie would gamble 10 with me a little bit. 11 Q: And she was there and saw you pass checks over 12 to Rockaway's personnel for thousands of 13 dollars? 14 A: No, sir, she did not. 15 Q: And she got cash from the cashiers at 16 Rockaway's? 17 A: She knew there was a tab, yeah. Sure. I told 18 you that. 19 Q: And she got cash, too, did she not? 20 A: No. She usually got it and gave it to me. 21 Q: And gave it to you, right? 22 A: Yeah. Yeah. It was on my tab. 23 Q: So, her involvement is that she got cash. You 24 say it's on a tab and not by a check? 25 A: Right.</p>

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

Case No. 2006-CP-40-1814

Lauren Proctor and Trans-Union National
Title Insurance Company f/k/a Atlantic
Title Insurance Company,

Respondents,

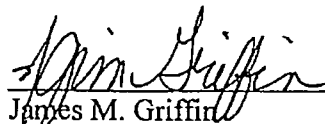
v.

Whitlark & Whitlark, Inc. d/b/a Rockaways
Athletic Club and Pizza Man, Forrest
Whitlark, Paul Whitlark, Charlie E. Bishop,
and Brett Blanks,

Appellants.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Supplemental Record on Appeal contains all material proposed to included by any of the parties and not any other material, and that Appellant has complied with the August 13, 2007 Order of the Supreme Court on Personal Data Identifiers.



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September 18, 2012

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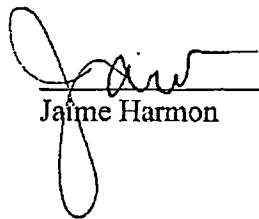
Appellants.

PROOF OF SERVICE

I, Jaime Harmon, the undersigned employee of Lewis, Babcock & Griffin L.L.P, attorney for Appellant Whitlark & Whitlark, Inc. d/b/a Rockaways Athletic Club and Pizza Man, Forrest Whitlark, Paul Whitlark, do hereby certify that I have served a copy of the foregoing Supplemental Record on Appeal, in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following addresses:

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Jaime Harmon

Columbia, South Carolina
September 10, 2012