

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
William H. Seals, Jr., Circuit Court Judge

Circuit Court Case No. 2009-CP-26-5743

Hotel and Motel Holdings, LLC,

Respondent,

v.

BJC Enterprises, LLC, Wendy J. Bellamy, Americana, Inc.,
a/k/a Americana Motel of Myrtle Beach, Inc., Mazingo & Wallace
Architects, LLC, Kersi S. Shroff, and Shroff Management, Inc.,

Defendants.

BJC Enterprises, LLC, Wendy J. Bellamy, Americana, Inc.,
a/k/a Americana Motel of Myrtle Beach, Inc.,

Appellants,

v.

First Palmetto Savings Bank, F.S.B., Jack Jones,
Donald D. Godwin, and Bhupendra Patel,

Respondents.

DESIGNATION OF MATTER TO BE INCLUDED
IN THE RECORD ON APPEAL

TURNER PADGET GRAHAM & LANEY, P.A.

Audra M. Byrd, Bar No. 76719
R. Wayne Byrd, Bar No. 1068
Carlyle R. Cromer, Bar No. 100058
Post Office Box 2116 (29578)
Myrtle Beach, South Carolina
Telephone: 843.213.5500
*Attorneys for Respondents Hotel & Motel
Holding, LLC, Jack Jones and Donald D.
Godwin*

Respondents Hotel & Motel Holdings, LLC, Jack Jones and Donald Godwin

propose the following be included in the Record on Appeal:

A. ORDERS

1. Consent Order Substituting Plaintiff, September 11, 2009;
2. Order Regarding Appointment of Receiver, December 23, 2009;
3. Order for Appointment of Receiver, April 20, 2010;
4. Order Granting Motion to Compel Receiver to Allow Inspection, September 24, 2010;
5. Order Granting Motion to Dismiss Third Party Complaint on Behalf of Third Party Defendants Jack Jones and Donald Godwin, October 15, 2010;
6. Order Granting Motions to Dismiss Filed on behalf of Third-Party Defendants Bhupendra Patel, Jack Jones and Donald Godwin, April 20, 2011;
7. Order Denying Motion for Summary Judgment on behalf of Plaintiff Hotel & Motel Holdings, LLC, June 1, 2011;
8. Order Granting Motion for Summary Judgment on Counterclaims Asserted by Defendants Against Hotel & Motel Holdings, LLC, June 1, 2011;
9. Order Denying Defendants/Third-Party Plaintiffs' Motion for Summary Judgment, July 25, 2011;
10. Order Denying Defendants' Motion for Reconsideration of Order Granting Summary Judgment to Plaintiff on Defendants' Counterclaims, July 25, 2011;
11. Order Granting Motion to Strike Request for Jury Trial, September 26, 2011;
12. Order Denying Defendants/Third-Party Plaintiffs' Motion for Reconsideration of Order, November 29, 2011;
13. Order and Judgment of Foreclosure and Sale, September 14, 2012

B. PLEADINGS

1. Amended Lis Pendens, September 22, 2009;
2. Amended Summons and Complaint, September 22, 2009 (with Exhibits), September 22, 2009;
3. Amended Answer, Counterclaims, and Third-Party Complaint of Defendants BJC Enterprises, Wendy J. Bellamy, and Americana, Inc., June 9, 2010;
4. Reply to Amended Answer and Counterclaims of Defendant Wendy J. Bellamy on behalf of Plaintiff Hotel & Motel Holdings, LLC, July 2, 2010; and
5. Answer to Amended Complaint on behalf of Jack Jones and Donald Godwin, November 11, 2010.

C. MOTIONS AND MEMORANDA

1. Notice of Motion and Motion for Appointment of Receiver, March 12, 2010;

2. Notice of Motion and Motion to Strike, to Dismiss, and for Costs and Sanctions on behalf of Third-Party Defendants Jack Jones and Donald Godwin, July 16, 2010;
3. Memorandum of Law in Support of Motion to Strike, to Dismiss, and for Costs and Sanctions on behalf of Third-Party Defendants Jack Jones and Donald Godwin, July 16, 2010;
4. Supplemental Motion to Dismiss and to Strike Third-Party Complaint on behalf of Third-Party Defendants Jack Jones and Donald Godwin, August 3, 2010;
5. Notice of Motion and Motion for Summary Judgment on Counterclaims Submitted on behalf of Plaintiff Hotel & Motel Holdings, LLC, April 8, 2011;
6. Memorandum of Law in Support of Motion for Summary Judgment on Counterclaims Submitted on behalf of Plaintiff Hotel & Motel Holdings, LLC, April 8, 2011 (with Exhibits);
7. Memorandum of Law in Support of Motion to Dismiss and to Strike Third-Party Complaint on behalf of Third-Party Defendants Jack Jones and Donald Godwin, April 11, 2011;
8. Motion for Summary Judgment on behalf of Plaintiff Hotel & Motel Holdings, LLC, May 2, 2011;
9. Memorandum of Law in Support of Motion for Summary Judgment on behalf of Plaintiff Hotel & Motel Holdings, LLC, May 3, 2011;
10. Motion to Strike Request for Jury Trial, June 6, 2011;
11. Plaintiff's Memorandum of Law in Opposition to Defendants/Third-Party Plaintiffs' Motion for Summary Judgment, June 30, 2011 (with Exhibits); and
12. Memorandum of Law in Opposition to Motion for Reconsideration of Order Granting Motion for Summary Judgment to Plaintiff as to Defendants' Counterclaims, June 30, 2011 (with Exhibits).

D. HEARING TRANSCRIPTS

1. Transcript of Hearing, September 23, 2010, Pages 1-2, and 39-58;
2. Transcript of Hearing, April 14, 2011, Pages 1-2, and 7-28;
3. Transcript of Hearing, May 12, 2011, Pages 1-3, and 5-61; and
4. Transcript of Hearing, August 24, 2011, all pages.

E. DEPOSITION TRANSCRIPTS

1. Deposition of Wendy J. Bellamy, November 23, 2010, Pages 1-3, 17, 26-28, 31, 40-41, 50-51, 60-63, 92-93, 102, 202-203, 217, and Exhibits 88 and 132;
2. Deposition of Donald Godwin, November 3, 2010, Pages 1-3, 33-34, and 88;
3. Deposition of Brent Hutto, June 8, 2010, Pages 1-4, and 66-67; and
4. Deposition of Jack Jones, October 21, 2010, Pages 1-2, 52, 81-85, 104-105, 111-113, 190-192, and Exhibit 26.

F. AFFIDAVITS

1. Affidavit of John K. DuBose, III, Esquire, June 30, 2011 (with Exhibits); and

2. Affidavit of Brent Hutto, June 27, 2011.

G. EXHIBITS

1. Letter from First Palmetto Savings Bank to BJC, LLC, Henry C. Coan, III, Wendy J. Bellamy and Harvey Jones dated 11/24/04 re: Conditional Commitment
2. Promissory Note dated 01/14/05
3. Guaranty of Wendy J. Bellamy dated 01/14/05
4. Guaranty of Wendy J. Bellamy dated 01/17/07
5. Promissory Note dated 01/17/07
6. Note from BJC Enterprises, LLC to First Palmetto Savings Bank, FSB dated 01/17/2008
7. Guaranty of Wendy J. Bellamy dated 01/17/08
8. Letter of default from DuBose-Robinson, PC dated 11/14/08.
9. Wachovia Bank Check for \$95,000 dated 02/03/09
10. Request for Payment Deferral, dated 2/4/09
11. Facsimile from Harvey Jones to Sammy Smalls dated 02/05/09
12. Promissory Note dated 06/30/09
13. Bill of Sale dated 06/30/09
14. Loan Agreement and Addendum to Loan Agreement dated 06/24/09
15. Assignment of Mortgage dated 06/30/09 from First Palmetto Savings Bank, FSB (BJC Enterprises, LLC) to Hotel & Motel Holdings, LLC
16. Assignment of Mortgage dated 06/30/09 from First Palmetto Savings Bank, FSB (Wendy Bellamy) to Hotel & Motel Holdings, LLC
17. Assignment of Mortgage dated 06/30/09 from First Palmetto Savings Bank, FSB (Americana Motel of Myrtle Beach, Inc. a/k/a Americana, Inc.) to Hotel & Motel Holdings, LLC
18. Collateral Assignment of Note, Mortgage and other Loan Documents dated 06/30/09
19. Collateral Assignment of Note, Mortgage and other Loan Documents dated 06/30/09
20. Collateral Assignment of Note, Mortgage and other Loan Documents dated 06/30/09
21. BJC Loan Payment History During 2008 Calendar Year
22. Tax Returns 2006 – Americana
23. Tax Returns 2007 – Americana
24. Tax Returns 2008 – Americana
25. Tax Returns 2006 – BJC Enterprises
26. Tax Returns 2007 – BJC Enterprises
27. Tax Returns 2008 – BJC Enterprises
28. Tax Returns of Wendy J. Bellamy
29. Letter from Wendy Bellamy to Casey Shroff Dated April 23, 2009
30. Letter to Wendy Bellamy from Casey Shroff Dated May 8, 2009
31. Letter from Wendy Bellamy to Casey Shroff Dated May 13, 2009

I certify that this designation contains no matter which is irrelevant to this appeal.



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Holding, LLC, Jack Jones and Donald D.
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November 12, 2013

Myrtle Beach, South Carolina

THE STATE OF SOUTH CAROLINA
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APPEAL FROM HORRY COUNTY
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v.

First Palmetto Savings Bank, F.S.B., Jack Jones,
Donald D. Godwin, and Bhupendra Patel,

Respondents.

PROOF OF SERVICE

The undersigned attorney hereby certifies that on November 12, 2013, true copies of the Respondents' Initial Brief and Designation of Matter in the above-referenced case has been served upon counsel by depositing them in the United States mail, postage prepaid and properly addressed as follows:

Kathryn M. Cook, Esquire
Cook & Roy, LLC
Post Office Box 4086
North Myrtle Beach, SC 29597

William H. Short, Jr., Esquire
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Myrtle Beach, South Carolina

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November 12, 2013

The Honorable Jenny Abbott Kitchings
Clerk of Court for the South Carolina Court of
Appeals
Post Office Box 11629
Columbia, SC 29211

Re: *Hotel & Motel Holdings, LLC v. BJC Enterprises, LLC et al.*
Appellate Case Number: **2011-198106**
Our File Number: 10338.00101

Dear Ms. Kitchings:

Enclosed herewith please find an original and one (1) copy of the Designation of Matter to Be Included on Appeal, the Initial Brief of Respondent and the Proof of Service, for filing with the Court. Please return a clocked copy of these documents to me in the enclosed self-addressed, stamped envelope provided for your convenience. Should you have any questions, please do not hesitate to contact me. I greatly appreciate your assistance in this matter. Thank you very much.

With highest professional regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P.A.



Audra M. Byrd

AMB: mmb
Enclosures

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SC Court of Appeals

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