

**STATE OF SOUTH CAROLINA  
IN THE  
COURT OF APPEALS**

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Appeal from the Court of Common Pleas  
For Beaufort County  
Honorable Roger L. Couch, Circuit Judge  
Civil Action No.: 2008-CP-07-3018  
**Appellate Case No. 2013-002235**

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*Mogel*

Dockside Incorporated of Port Royal, a/k/a Dockside  
of Port Royal, Inc., a South Carolina Corporation,

Respondent,

v.

The South Carolina State Ports Authority, an Agency  
and/or Political Subdivision of the State of South  
Carolina; Tommy Oliva and Teri Oliva,

Defendants,

Of Whom The South Carolina State Ports Authority,  
an Agency and/or Political Subdivision of the State of  
South Carolina is the

Appellant.

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**MOTION TO REINSTATE APPEAL**

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**RECEIVED**  
JAN 13 2014  
SC COURT OF APPEALS

Stephen P. Groves, Esquire  
Cheryl D. Shoun, Esquire  
Wm. Chase McNair, Esquire  
**NEXSEN PRUET, LLC**  
205 King Street, Suite 400  
Charleston, South Carolina 29401  
Telephone: 843.720.1725  
Telecopier: 843.414.8206

*Attorneys for the Appellant,  
The South Carolina State Ports Authority*

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT OF APPEALS:

The Appellant, The South Carolina State Ports Authority, an Agency and/or Political Subdivision of the State of South Carolina (the "SCSPA"), pursuant to Rule 240 of the South Carolina Appellate Court Rules, respectfully and respectfully requests this Court of Appeals to reinstate the above-captioned appeal and permit this matter to proceed to the ordinary conclusion. This motion is in response to this Court of Appeals' Order Dismissing Appeal filed 8 January 2014, and received by the undersigned counsel on 9 January 2014. The basis of the SCSPA's reinstatement motion is as follows:

On 9 October 2013, pursuant to Rule 203, SCACR, the SCSPA's undersigned appellate counsel filed the SCSPA's Notice of Appeal with this Court of Appeals and served copies upon counsel for the Respondents, Dockside Incorporated of Port Royal, a/k/a Dockside of Port Royal, Inc., a South Carolina Corporation ("Dockside"), as well as on the Office of the Clerk of Court for the Beaufort County Court of Common Pleas. This Court of Appeals acknowledged receipt of the Notice of Appeal and instructed the parties as to certain alteration to the caption by letter dated 29 October 2013.

On 10 October 2013, pursuant to Rule 207(a), SCACR, the SCSPA's undersigned appellate counsel sent a letter to Ms. Ronda T. Cummings (Official Court Reporter) requesting Ms. Cummings to prepare a transcript of the trial proceedings held before the

Honorable Roger L. Couch, Circuit Judge, during 11 February 2013, through 15 February 2013.<sup>1</sup> Ms. Cummings acknowledgment receipt of the Cummings Letter by acknowledgment memoranda dated 28 October 2013.<sup>2</sup> SCSPA's Appellate counsel is currently awaiting receipt of the transcript of the trial proceedings from Ms. Cummings, but is not aware of Ms. Cummings' current progress towards completion of the final product.

In addition, also on 10 October 2013, and also pursuant to Rule 207(a), SCACR, appellate counsel sent a second letter to Ms. Pamela S. Faucette requesting Ms. Faucette to prepare a transcript of the post-trial proceedings held before the Honorable Roger L. Couch, Circuit Judge, on 24 May 2013.<sup>3</sup> Ms. Faucette subsequently telephonically acknowledged receipt of the Faucette Letter during the latter part of October 2013. In fact, Ms. Faucette has prepared and been paid for the transcript of the post-trial proceedings.

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<sup>1</sup> See Letter to Ms. Ronda T. Cummings from Stephen P. Groves, Sr., Esquire dated 10 October 2013 (the "Cummings Letter"). A copy of the Cummings Letter is attached hereto as Exhibit "A" and incorporated herein by reference.

<sup>2</sup> See Acknowledgment of Receipt of Letter Regarding Transcript of Record to Stephen P. Groves, Sr., Esquire from Ronda T. Cummings dated 28 October 2013 (the "Acknowledgment Form"). A copy of the Acknowledgment Form is attached hereto as Exhibit "B" and incorporated herein by reference.

<sup>3</sup> See Letter to Ms. Pamela S. Faucette from Stephen P. Groves, Sr., Esquire dated 10 October 2013 (the "Faucette Letter"). A copy of the Faucette Letter is attached hereto as Exhibit "C" and incorporated herein by reference.

Both the Cummings Letter and the Faucette Letter indicated that copies of the respective letters went to, among others, the Clerk of Court's Office for this Court of Appeals, the Beaufort County Clerk of Court's Office, South Carolina Court Administration, and Dockside's appellate counsel.

It is the undersigned appellate counsel's normal procedure to send out the transcript order letter or letters to the applicable court reporter or reporters the day the Notice of Appeal is filed on immediately thereafter. Copies of the transcript order letters, as required by Rule 207(a)(1), SCACR, are routinely sent to this Court of Appeals, the Circuit Court, opposing counsel, and South Carolina Court Administration.

The SCSPA believes and asserts that any inadvertent misdirection and/or unintentional failure to send the Cummings Letter and/or the Faucette Letter to this Court of Appeals or the loss of those letters by the U.S. Postal Service, or whatever fate experienced by those letters was unintended, unplanned, and accidental. Furthermore, the SCSPA does not believe that any party to this appeal will be prejudiced by this Court of Appeals reinstating this appeal as all parties were timely made aware of the transcript order and that the appeal was progressing in the normal course.

In conclusion, the SCSPA respectfully requests that this Court of Appeals to reinstate the appeal in this case and permit the appeal to progress towards the ultimate decision in the normal course.

Respectfully submitted,

NEXSEN PRUET, LLC

By: \_\_\_\_\_

Stephen P. Groves, Esquire

Cheryl D. Shoun, Esquire

Wm. Chase McNair, Esquire

NEXSEN PRUET, LLC

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Charleston, South Carolina 29401

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[CShoun@nexsenpruet.com](mailto:CShoun@nexsenpruet.com)

[CMcNair@nexsenpruet.com](mailto:CMcNair@nexsenpruet.com)

*Attorneys for the Appellant,*

*The South Carolina State Ports Authority*

Charleston, South Carolina

9 January 2014

NPCHAR:1256740.1-APL-(SPG) 024000-00235

**STATE OF SOUTH CAROLINA  
IN THE  
COURT OF APPEALS**

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Appeal from the Court of Common Pleas  
For Beaufort County  
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Defendants,

Of Whom The South Carolina State Ports Authority,  
an Agency and/or Political Subdivision of the State of  
South Carolina is the

Appellant.

---

**PROOF OF SERVICE FOR THE  
MOTION TO REINSTATE APPEAL**

---

Stephen P. Groves, Esquire  
Cheryl D. Shoun, Esquire  
Wm. Chase McNair, Esquire  
*NEXSEN PRUET, LLC*  
205 King Street, Suite 400  
Charleston, South Carolina 29401  
Telephone: 843.720.1725  
Telecopier: 843.414.8206

*Attorneys for the Appellant,  
The South Carolina State Ports Authority*

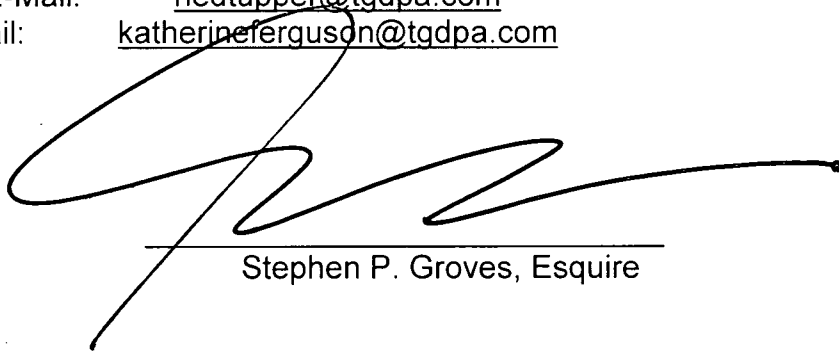
**RECEIVED**

JAN 13 2014

**SC Court of Appeals**

I, Stephen P. Groves, Esquire, hereby certify that on 9 January 2014, I served a copy of the **Motion to Reinstate Appeal** submitted by the Appellant, The South Carolina State Ports Authority, an Agency and/or Political Subdivision of the State of South Carolina, on counsel for the Respondent via United States Mail, postage pre-paid, and addressed, as well as, via e-mail as follows:

Ralph E. Tupper, Esquire  
Katherine G. Ferguson, Esquire  
*TUPPER, GRIMSLEY & DEAN, P.A.*  
Post Office Box 2055  
Beaufort, South Carolina 29901-2055  
Telephone: 843.524.1116  
Telecopier: 843.524.1463  
E-Mail: [nedtupper@tgdpa.com](mailto:nedtupper@tgdpa.com)  
E-Mail: [katherineferguson@tgdpa.com](mailto:katherineferguson@tgdpa.com)



A large, stylized handwritten signature in black ink, appearing to read 'Stephen P. Groves', is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Stephen P. Groves, Esquire

Charleston, South Carolina  
9 January 2014

NPCHAR1:1256740.1-APL-(SPG) 024000-00235

# The South Carolina Court of Appeals

Dockside Incorporated of Port Royal, a/k/a Dockside of  
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Respondent,

v.

The South Carolina State Ports Authority, an Agency  
and/or Political subdivision of the State of South  
Carolina; Tommy Oliva and Teri Oliva, Defendants,

Of whom The South Carolina State Ports Authority, an  
Agency and/or Political subdivision of the State of South  
Carolina is the Appellant.

Appellate Case No. 2013-002235

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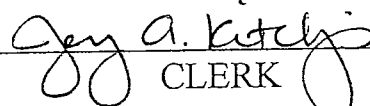
## ORDER

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As of today's date, the Court has not received any information indicating appellant has ordered the transcript in this case, nor has the Court received the appellant's initial brief and designation of matter, as required by Rules 207, 208 and 209 of the South Carolina Appellate Court Rules. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY

  
CLERK

Columbia, South Carolina

cc:

Stephen Peterson Groves, Sr., Esquire

Cheryl D. Shoun, Esquire

William Chase McNair, Esquire

Ralph E. Tupper, Esquire

Katherine Graham Ferguson, Esquire

FILED


1-8-14 

Exhibit A

NEXSEN | PRUET

Stephen P. Groves, Sr.  
Member  
Admitted in South Carolina

10 October 2013

Ms. Ronda T. Cummings  
Official Court Reporter  
P.O. Box 2082  
Walterboro, South Carolina 29488

RECEIVED

JAN 13 2014

SC Court of Appeals

Re: Dockside Incorporated of Port Royal, a/k/a Dockside of Port Royal, Inc., a South Carolina Corporation v. The South Carolina State Ports Authority, an Agency and/or Political Subdivision of the State of South Carolina

Appeal from the Beaufort County Court of Common Pleas

Case Action No.: 2008-CP-07-3018

COA Case Tracking No.: 2013-\_\_\_\_\_

NP File No.: 024000-00235

Dear Ms. Cummings:

Charleston

Charlotte

Columbia

Greensboro

Greenville

Hilton Head

Myrtle Beach

I am writing to you on behalf of the Appellant, The South Carolina State Ports Authority, an Agency and/or Political Subdivision of the State of South Carolina, in the above-referenced matter. As you may recall, you were the court reporter for the trial of the matter in the Beaufort County Court of Common Pleas before the Honorable Roger L. Couch, Circuit Judge, during the dates of 11 February 2013, until 15 February 2013.

We have now appealed this case to the South Carolina Court of Appeals, by Notice of Appeal dated and served on 9 October 2013. Pursuant to Rule 207(a)(1) of the South Carolina Appellate Court Rules, I would greatly appreciate you kindly preparing the transcript of the trial proceedings. Once the transcript has been completed, please send it directly to my attention, together with your services invoice. I will see that the invoice is promptly paid. If, on the other hand, you will require a deposit, please let me know and I will forward it to you.

Ralph E. Tupper, Esquire and Katherine G. Ferguson, Esquire of Tupper, Grimsley & Deal, P.A. represented the Respondent, Dockside Incorporated of Port Royal, a/k/a Dockside of Port Royal, Inc., a South Carolina Corporation, and may be contacting you for a copy of the transcript. By copy of this letter, I am advising them of this transcript order.

205 King Street  
Suite 400 (29401)  
PO Box 486  
Charleston, SC 29402  
nexsenpruet.com

T: 843.720.1725  
F: 843.414.8206  
E: SGroves@nexsenpruet.com  
Nexsen Pruet LLC  
Attorneys and Counselors at Law

# NEXSEN PRUET

Ms. Rhonda T. Cummings  
Official Court Reporter  
10 October 2013  
Page 2

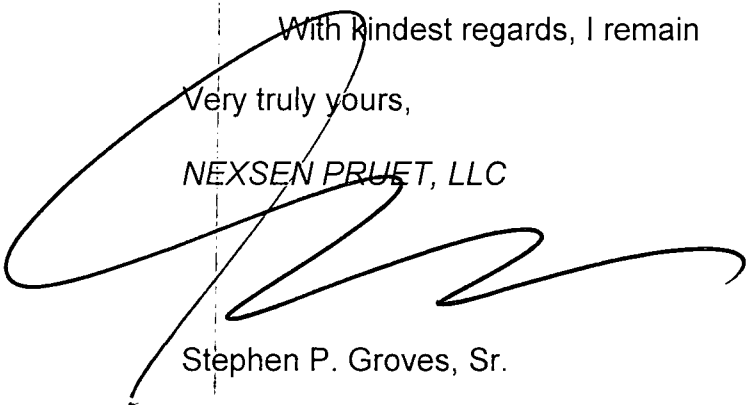
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If you need anything else or I otherwise may be of any assistance to you regarding this matter, please feel free to contact me at your convenience. My direct telephone number is 843.720.1725, direct telecopier is 843.414.8206, and the e-mail is [sgroves@nexsenpruet.com](mailto:sgroves@nexsenpruet.com).

With kindest regards, I remain

Very truly yours,

NEXSEN PRUET, LLC



Stephen P. Groves, Sr.

SPGsr:spg

CC: Hon. Jenny Abbott Kitchings (Clerk of SC Court of Appeals)  
Hon. Jerri Ann Roseneau (Clerk – Beaufort CCCP)  
South Carolina Court Administration  
Ralph E. Tupper, Esquire/Katherine G. Ferguson, Esquire  
Philip L. Lawrence, Esquire (SCSPA – General Counsel)

NPCHAR1:1226127.1-LT-(SPG) 024000-00235

RONDA T. CUMMINGS  
Official Court Reporter  
S.C. Judicial Department  
Post Office Box 2082  
Walterboro, South Carolina 29488

*Exhibit B*

**RECEIVED**

JAN 13 2014

SC Court of Appeals

DATE: October 28, 2013

**ACKNOWLEDGMENT OF RECEIPT OF  
LETTER REGARDING TRANSCRIPT OF RECORD**

TO: Stephen P. Groves, Sr., Esquire  
Attorney at Law  
P.O. Box 486  
Charleston, SC 29402

DATE OF HEARING: February 11 - 15, 2013

CAPTION: Dockside Incorporated of Port Royal, a/k/a Dockside of Port Royal, Inc., a South Carolina Corporation vs. The South Carolina State Ports Authority, an Agency and/or Political Subdivision of the State of South Carolina  
2008-CP-07-03018

This is to acknowledge that on October 14, 2013, I received your letter dated October 10, 2013, requesting the Transcript of Record in the above matter. I have reviewed my records and estimate that the transcript will be approximately 1100 pages. Rule 607 provides that the rate of \$3.25 shall be charged per page for a transcript. Based on the current rate, the estimated cost will be \$3575. I will forward the bill, along with the transcript.

Under our rules, I have sixty days in which to complete the transcript. In addition, I am allowed to request from Court Administration thirty day extensions, if necessary, to complete the transcript. You will be notified if extensions are granted.

If you desire to cancel the request for the transcript, a cancellation request must be made in writing. You will be responsible for payment of any portion of the transcript that has been completed.

Should you have any questions regarding the above information, please contact me at the above address. Thank you for your request in this matter.

Sincerely,

  
Ronda T. Cummings

Exhibit C

NEXSEN | PRUET

Stephen P. Groves, Sr.  
Member  
Admitted in South Carolina

10 October 2013

Ms. Pamela S. Faucette  
40 Somerset Drive  
Spartanburg, South Carolina 29301-6543

RECEIVED

JAN 13 2014

SC Court of Appeals

Re: Dockside Incorporated of Port Royal, a/k/a Dockside of Port Royal, Inc., a South Carolina Corporation v. The South Carolina State Ports Authority, an Agency and/or Political Subdivision of the State of South Carolina

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Case Action No.: 2008-CP-07-3018

COA Case Tracking No.: 2013-\_\_\_\_\_

NP File No.: 024000-00235

Dear Ms. Faucette:

Charleston

Charlotte

Columbia

Greensboro

Greenville

Hilton Head

Myrtle Beach

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We have now appealed this case to the South Carolina Court of Appeals, by Notice of Appeal dated and served on 9 October 2013. Pursuant to Rule 207(a)(1) of the South Carolina Appellate Court Rules, I would greatly appreciate you kindly preparing the transcript of the post-trial proceedings. Once the transcript has been completed, please send it directly to my attention, together with your services invoice. I will see that the invoice is promptly paid. If, on the other hand, you will require a deposit, please let me know and I will forward it to you.

Ralph E. Tupper, Esquire and Katherine G. Ferguson, Esquire of Tupper, Grimsley & Deal, P.A. represented the Respondent, Dockside Incorporated of Port Royal, a/k/a Dockside of Port Royal, Inc., a South Carolina Corporation, and may be contacting you for a copy of the transcript. By copy of this letter, I am advising them of this transcript order.

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Nexsen Pruet LLC  
Attorneys and Counselors at Law

# NEXSEN PRUET

Ms. Pamela S. Faucette  
10 October 2013  
Page 2

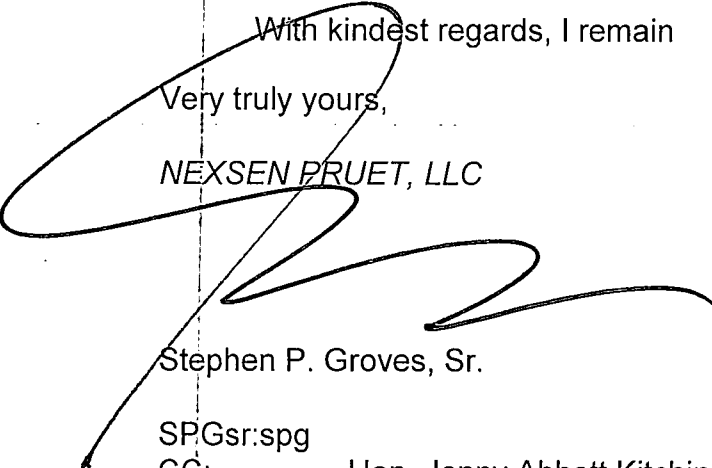
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If you need anything else or I otherwise may be of any assistance to you regarding this matter, please feel free to contact me at your convenience. My direct telephone number is 843.720.1725, direct telecopier is 843.414.8206, and the e-mail is [sgroves@nexsenpruet.com](mailto:sgroves@nexsenpruet.com).

With kindest regards, I remain

Very truly yours,

NEXSEN PRUET, LLC



Stephen P. Groves, Sr.

SPGsr:spg

CC:

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South Carolina Court Administration  
Ralph E. Tupper, Esquire/Katherine G. Ferguson, Esquire  
Philip L. Lawrence, Esquire (SCSPA – General Counsel)

NPCHAR1:1226158.1-LT-(SPG) 024000-00235

Stephen P. Groves, Sr.  
Member  
Admitted in South Carolina

RECEIVED

JAN 13 2014

SC Court of Appeals

9 January 2014

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court Of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

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NP File No.: 024000-00235

Charleston

Charlotte  
Columbia  
Greensboro  
Greenville  
Hilton Head  
Myrtle Beach

Dear Ms. Kitchings:

Pursuant to Rules 240, SCACR, enclosed please the original and seven copies of a Motion to Reinstate Appeal in the above-referenced appellate matter filed on behalf of the Appellant, The South Carolina State Ports Authority, an Agency and/or Political Subdivision of the State of South Carolina. I also enclose the original and one copy of a Proof of Service indicating service of a copy of the Motion to Reinstate Appeal upon Ralph E. Tupper, Esquire and Katherine G. Ferguson, Esquire, as counsel for the Respondent, Dockside Incorporated of Port Royal, a/k/a Dockside of Port Royal, Inc., a South Carolina Corporation. Finally, I also enclose our firm check in the amount of \$25.00 as payment for the applicable motion filing fee set forth in Footnote 1 of Rule 240(b), SCACR.

I would appreciate your filing the Motion to Reinstate Appeal, as well as the Proof of Service, with the Court of Appeals and returning one stamped copy of each to my attention in the enclosed self-addressed stamped envelope. By copy of this letter, I am serving the Respondent's counsel with the same.

# NEXSEN PRUET

Hon. Jenny Abbott Kitchings  
Clerk of Court  
9 January 2014  
Page 2

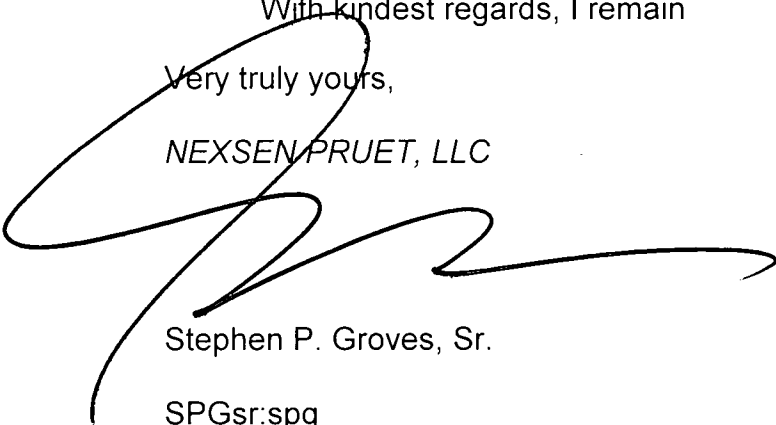
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With kindest regards, I remain

Very truly yours,

NEXSEN PRUET, LLC



Stephen P. Groves, Sr.

SPGsr:spg

Enclosures

CCE

Ralph E. Tupper, Esquire/Katherine G. Ferguson, Esquire

NPCHAR1:1256812.1-LT-(SPG) 024000-00235

**NEXSEN | PRUET**

P. O. Box 486  
Charleston SC 29402

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court Of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

24000-235 spg

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