

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

11322

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

Honorable Marvin H. Dukes, III, Presiding Judge

Case No. 2013 – CP - 1186

~~WIKAL~~ Charles R. Mikals and Donna Mikals.....Appellants

v.

Debra House.....Respondent

NOTICE OF APPEAL

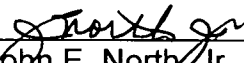
Charles R. Mikals and Donna Mikals appeal the Order denying the Motion to Alter Or Amend of the Honorable Marvin H. Dukes, III, dated January 23, 2014. Appellants received notice of entry of this Order by email on January 23, 2014, and by mail on January 24, 2014. A true and correct copy of the Order appealed from is enclosed herewith.

Dated: February 15, 2014.

RECEIVED

FEB 19 2014

SC Court of Appeals

  
\_\_\_\_\_  
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Other Counsel of Record:

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Charleston, SC 29401  
Attorney for the Respondent

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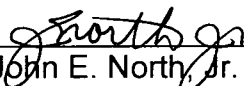
Debra House.....Respondent

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PROOF OF SERVICE

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I hereby certify that I served the Appellants' Notice of Appeal upon the attorney for the Respondent, J. Scott Falls, P.O. Box 657, Charleston, SC 29401 by United States Mail, first class, postage prepaid on February 15, 2014.

  
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Attorney for Appellants

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STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

IN THE COURT OF COMMON PLEAS

CASE NO: 2013-CP-07-01186

Charles R. Mikals, et al., )

Plaintiff(s), )

vs. )

Debra House, )

Defendant(s). )

ORDER  
(on reconsideration)

2014 JAN 23 AM 10:31  
JAN ROSENEAU  
BEAUFORT COUNTY, S.C.  
CLERK OF COURT

*This matter came before me on January 22, 2014 pursuant to Plaintiff's motion to Alter or Amend my Order dated and filed October 7, 2013. That Order granted Defendant's motion to dismiss on jurisdictional grounds. In ruling on Plaintiff's motion, I now substitute this Order which modifies my reasoning for dismissal.*

Plaintiff alleges that Defendant (a Canadian citizen) called to, e-mailed to and travelled to Beaufort County, South Carolina on one or more occasions to solicit Plaintiff's agreement to use his personal line of credit for purposes of securing financing for a Canadian company<sup>1</sup>. Plaintiff alleges that these solicitations were accompanied by false assurances as to the safety of this course of action.

While these allegations, on their face, may satisfy the "power prong"<sup>2</sup> of a jurisdictional analysis, they fail the fairness test. To exercise jurisdiction in this case would be to offend "traditional notions of fair play and substantial justice".

Taking the Plaintiff's allegations as fact: 1) The Defendant is a Canadian citizen; 2) The loans and line of credit which form the basis the action are from the Bank of Montreal and; 3) The loans and line of credit were for the benefit of Canadian corporations.

It is clear from the four corners of the Complaint that the truth or falsity of the representation of financial health of a Canadian corporation will be a crucial component of the

<sup>1</sup> Greenline Plywood Products was owned by Plaintiff's children and operated as a successor to another Canadian company (Forest Products) formerly owned by Plaintiff.

<sup>2</sup> To satisfy the power prong, the court must find the defendant directed his activities to residents of South Carolina and that the cause of action arises out of or relates to those activities. *Moosally v. W.W. Norton & Co.*, 358 S.C. 320, 331-32, 594 S.E.2d 878, 884 (Ct.App.2004).

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SC Court of Appeals

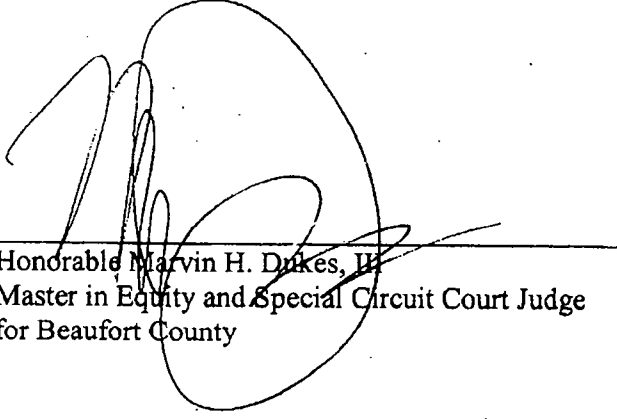
Plaintiff's case. The character and circumstances of such a case dictate that Canadian records, Canadian reports, Canadian budgets, Canadian accountants and the like be involved.

South Carolina is not a convenient forum for such a case.

I can imagine almost no South Carolina interest in exercising jurisdiction.

Therefore the Defendant's Motion to Dismiss is granted, the Plaintiff's Motion to Alter or Amend the dismissal is substantially denied (except as to any changes herein) and this Order is substituted.

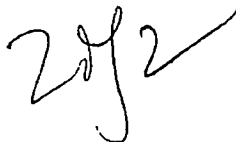
IT IS SO ORDERED:

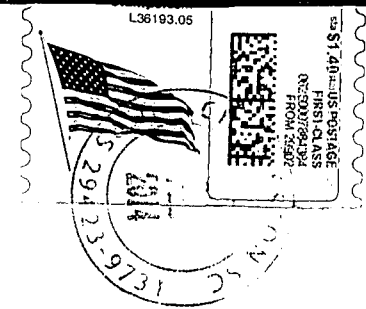


Honorable Marvin H. Dikes, III  
Master in Equity and Special Circuit Court Judge  
for Beaufort County

January 22, 2014  
Beaufort, South Carolina

[Type text]





# First Class Mail

**NORTH & BLACK, P.C.**  
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The Honorable Tanya Gee  
Clerk, South Carolina Court of Appeals  
PO Box 11629  
Columbia, SC 29211

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**SC Court of Appeals**