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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

J. Mark Hayes, II, Circuit Court Judge

Appellate Case No. 2013-001367

Ex parte: William Dixon Robertson III, William M. Bowen, W.
Jefferson Leath, Jr., Michael S. Seekings, and Timothy W. Bouch,.....Appellants.

Timothy J. Treon and his wife, Jane Treon, and P. Jennings Scarce
and Steven Christian individually, and on behalf of other similarly
situated in the State of South Carolina,.....Respondents,

vs.

Dryvit Systems, Inc., Defendant.

**APPELLANTS' DESIGNATION OF
MATTER TO BE INCLUDED IN THE RECORD ON APPEAL**

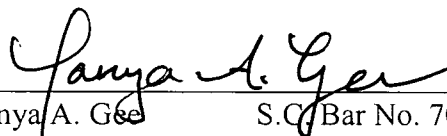
The Appellants propose the following be included in the Record on Appeal:

1. June 5, 2012 Rule to Show Cause Order, *Treon, et al. v. Dryvit*
2. September 28, 2012 Order Denying Motion to Dismiss Rule to Show Cause, *Treon, et al. v. Dryvit*
3. January 19, 2006 Consent Order Relieving Certain of Plaintiffs' Counsel, *Treon, et al. v. Dryvit*
4. January 12, 2010 Motion for an Accounting and Deposit into Court of All Attorneys' [sic] Fees Collected by All Class Counsel Or in the Alternative for a Rule to Show Cause Why [Former Class] Counsel Should Not Be Held in Contempt, *Treon, et al. v. Dryvit*
5. March 31, 2010 Transcript of Record, Hearing on Motion for Accounting, *Treon, et al. v. Dryvit*, pages 1; 47, line 23 through 48, line 13; 53, line 15 through 54, line 12; 79, line 11 through 85, line 19; 87, lines 1-23; 88, line 21 through 89, line 5; 112, line 20 through 116, line 22; 141, lines 1-25; 142, lines 1-17; 148, lines 1-12; 156

6. June 10, 2010 Order and Judgment Granting Final Approval of Settlement Agreement, *Treon, et al. v. Dryvit*
7. December 30, 2005 Letter from Richard Gleissner to Dixon Robertson, cc to Judge Hayes, et al.
8. October 15, 2010 Motion for Class Certification, *Tucker, et al. v. Leath Bouch, Crawford, et al.*
9. July 21, 2011 Transcript of Record, Hearing on Plaintiffs' Motion for Class Certification, *Tucker, et al. v. Leath Bouch Crawford, et al*, pages 1; 31, lines 21-24; 34, line 25 through 35, line 5; 38, lines 7-15; 44, line 25 through 45, line 1; 83, line 17 through 84, line 25; 92, lines 10-24; 93, lines 12-23; 112, line 6 through 113, line 15; 133, lines 15-20; 135, line 13 through 138, line 3; 141, lines 14-25; 174, lines 15-25; 227, lines 7-22; 240.
10. November 4, 2011 Motion to Recuse Judge Hayes and Memorandum in Support by Leath Bouch & Crawford, LLP, *Tucker, et al. v. Leath Bouch Crawford*
11. May 2, 2012 Order Denying Motions to Recuse and Temporarily Staying Matters, *Tucker, et al. v. Leath Bouch, Crawford, et al.*
12. August 18, 2011 Conditional Stipulation Withdrawing Claim for Disgorgement, *Tucker et al. v. Leath Bouch, Crawford, et al.*
13. July 17, 2012 William Dixon Robertson's Response to Rule to Show Cause, *Treon, et al. v. Dryvit*
14. July 17, 2012 Bouch, Leath and Seekings' Return to Rule to Show Cause , *Treon, et al. v. Dryvit*
15. July 17, 2012 Cardamones', Clarks' and Gianni's Return to Rule to Show Cause and Memorandum in Support, *Treon, et al. v. Dryvit*
16. July 17, 2012 William Bowen's Return to Rule to Show Cause, *Treon, et al. v. Dryvit*
17. July 18-19, 2012 Transcript of Hearing on Rule to Show Cause, *Treon, et al. v. Dryvit*, pages 1; 55, lines 20-24; 72, lines 7-15; 115, lines 9-20; 126, line 25 through 127, line 11; 181, line 25 through 182, line 7; 194, line 12 through 196, line 9
18. August 31, 2012 e-mail from Judge Hayes
19. E-mail string from Judge Hayes
20. October 9, 2012 Robertson's and Bowen's Motion to Reconsider Order dated September 28, 2012, *Treon, et al. v. Dryvit*
21. October 9, 2012 Bouch, Leath and Seekings' Motion to Reconsider Order dated September 28, 2012, *Treon, et al. v. Dryvit*
22. October 10, 2012 Motion to Hold Appeal in Abeyance, *Treon, et al. v. Dryvit*
23. December 3, 2012 Order Dismissing Appeal without prejudice, *Treon, et al. v. Dryvit*
24. June 5, 2013 Order Denying Motions Under Rule 59(e), *Treon, et al. v. Dryvit*
25. June 14, 2013 Notice of Appeal, *Treon, et al. v. Dryvit*

26. October 11, 2013 Order Denying Motion to Dismiss Appeal, *Treon, et al. v. Dryvit*
27. January 14, 2003 Order and Judgment Granting Final Approval of Settlement, *Bobby R. Posey, et al. v. Dryvit Systems, Inc.*; Case No. 17.715-IV
28. March 25, 2010 Affidavit of Everette L. Doffemyre, *Treon, et al. v. Dryvit*
29. December 30, 2005 Letter from Dixon Robertson to Richard Gleissner, cc to Judge Hayes, et al.
30. January 3, 2006 Letter from Dixon Robertson to Richard Gleissner, cc to Judge Hayes, et al.
31. December 5, 2005 Order Granting Motion to Intervene, *Treon, et al. v. Dryvit*, Case No. 2002-CP-07-1377
32. September 3, 2002 Order Granting Class Certification by Judge Kemmerlin, *Treon, et al. v. Dryvit*, Case No. 2002-CP-07-1377
33. March 7, 2008 Complaint, *Timothy Treon and P. J. Scarce v. Dryvit Systems, Inc., John Cardamone and Sally Cardamone, Benjamin T. Clark and Diane Clark, Ramona Gianni and Nathan W. Gordon, et al.*, Case No. 08-CP-07-0774
34. October 13, 2008 First Amended Complaint, *Steven and Jeaneen Tucker, Charles and Stephanie Davis, Timothy and Janie P. Treon, P. Jennings Scarce, et al v. Leath Bouch, Crawford, et al.*, Case No. 08-CP-07-3145
35. February 2, 2010 Order of Disqualification by Judge Dukes, *Tucker, et al. v. Leath Bouch, Crawford, et al.*
36. March 17, 2010 Order denying Plaintiffs' Motion to Reconsider, Alter or Amend by Judge Dukes, *Tucker, et al. v. Leath Bouch, Crawford, et al.*
37. January 26-27, 2011 Transcript of Record, Hearing on Motion for Attorney's Fees, *Treon, et al. v. Dryvit*, pages 1; 412, line 25 through 413, line 18; 422, lines 8-24; 443, lines 4-9; 448, lines 16-20; 453, lines 20-22; 454, line 19 through 455, line 12; 459, line 20 through 460, line 2; 498, lines 6-8; 498, lines 10-11; 499, lines 7-15; 534
38. July 18-19, 2012 Transcript of Record, Hearing on Defendants' Motion to Dismiss Rule to Show Cause, *Treon, et al. v. Dryvit*, pages 1-2; 87, lines 4-17; 299
39. September 7, 2012 Motion for Limited Relief from Order Staying Case to Argue Motion to Compel, *Tucker, et al. v. Leath Bouch, Crawford, et al.*
40. April 4, 2013 Order Lifting Temporary Stay and Recusal, *Tucker, et al. v. Leath Bouch Crawford, et al.*
41. May 30, 2013 Order Appointing Judge Newman, *Tucker, et al. v. Leath Bouch Crawford, et al.*
42. July 26-27, 2011 Transcript of Record, Hearing on Motion for Attorney's Fees, *Treon, et al. v. Dryvit*, pages 1; 454, line 19 through 455, line 1

Pursuant to Rule 209(c), SCACR, the undersigned certifies that this designation contains no matter which is irrelevant to the appeal.



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and Steven Christian individually, and on behalf of other similarly situated
in the State of South Carolina,.....Respondents,

v.

Dryvit Systems, Inc.,Defendant.

PROOF OF SERVICE

I certify that this 13th day of January, 2014, I have served the foregoing Appellants'
Designation of Matter to be Included in Record on Appeal via U.S. Mail, first class
postage prepaid, on the following counsel:

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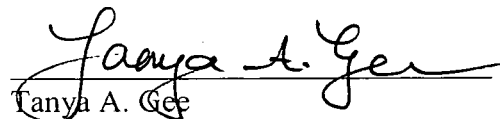
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January 13, 2014

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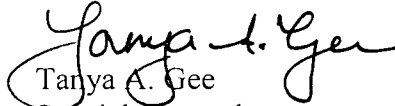
Re: *Ex parte: William Dixon Robertson III, et al., Appellants and Timothy J. Treon, et al., Plaintiffs/Respondents v. Dryvit Systems, Inc., Defendant;*
Beaufort County Case # 2002-CP-07-1377 / Appellate Case # 2013-001367

Dear Ms. Kitchings:

Enclosed herewith for filing in the above-referenced matter are the originals and one copy each of Appellants' Initial Brief and Designation of Matter to be Included in the Record on Appeal. Please return received-stamped copies to me via our courier. Also enclosed are the proofs of service reflecting that counsel of record have been served with copies of the same.

- Charleston
- Charlotte
- Columbia**
- Greensboro
- Greenville
- Hilton Head
- Myrtle Beach
- Raleigh

Very truly yours,


Tanya A. Gee
Special Counsel

TAG/cwh
Enclosures

cc (w/encl.):

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