

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, Jr., Circuit Court Judge

Case No. 2012-002806

EMSER TILE, LLC,

Respondent,

v.

JOHN D. CATTANO,

Appellant.

REPLY BRIEF OF APPELLANT

John D. Cattano, *pro se*
P.O. Box 106
Columbia, SC 29202
(803) 381-5850

Other Counsel of Record:

Anthony D. Hoefler, Esq.
Levi, Wittenberg, Harritt, Hoefler & Davis, PA
270 N. Washington Street
P.O. Drawer 730
Sumter, South Carolina 29151
803.773.8431/803.775.9011 (f)
Attorney for Respondent

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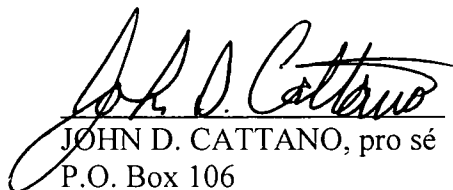
ARGUMENT

It appears that the central issue in this case is whether the employees of Conagree Triton Acquisitions, LLC (“Triton”) had authority, apparent or otherwise, to direct application of a credit payment(s) made to Emser. Assuming the case law cited by Emser in its brief is an accurate recitation of the law, then such case law supports a reversal of the Trial Court’s findings in this case granting Summary Judgment for Emser. That case law supports Cattano’s assertion that a genuine issue of material fact exists and a trial on the merits is warranted.

On pages 8, 9, and 10, of Emser’s Brief, the case law cited clearly sets forth that any apparent authority can only be created by conduct or words of the principal. There is no evidence or any indication in the pleadings, affidavit filed by Emser, or the supporting emails, that any employee of Triton had the authority from the principal. Cattano asserts that he never conveyed such authority, and there is nothing in the record to suggest by his words or conduct that any apparent authority was conveyed by or from Cattano, the principal.

As such, a general issue of material fact exists and the Summary Judgment granted by the Trial Court should be reversed.

Respectfully submitted,


JOHN D. CATTANO, pro sé

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