

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Cynthia Graham Howe,
Master-in-Equity for Horry County

Order (S.C. Ct. App. filed June 6, 2012)

Ex Parte Coastal Designs, Inc. and Tim Wilkes..... Petitioner

vs.

In Re: SRB Servicing, LLC, successor by assignment to Synovus Bank,
formerly known as Columbus Bank and Trust Company,
as successor in interest through name change and by merger with
the National Bank of South Carolina..... Respondent

vs.

Myrtle Beach Grande Hotel, LLC, Harvey L. Jones,
Wendy Jones (J.) Bellamy, Billy Joe (J.) Bellamy,
Kersi S. Shroff, Mozingo & Wallace Architects, LLC,
Harvey Levon Jones and Wendy Beth Jones Bellamy
as Personal Representatives of the Estate of Ann L. Jones,
and as Trustee of the Restated and Amended Trust Agreement
of Ann L. Jones, dated October 30, 2006..... Respondents.

BRIEF OF PETITIONER

Gene M. Connell, Jr. (S.C. Bar No. 1358)
Kelaher, Connell & Connor, P.C.
The Courtyard, Suite 209
1500 U. S. Highway 17 North
Post Office Drawer 14547
Surfside Beach, South Carolina 29587-4547
(843) 238-5648 (phone)
(843) 238-5050 (facsimile)
gconnell@classactlaw.net
Attorney for Petitioner

RECEIVED

APR 03 2014

S.C. SUPREME COURT

TABLE OF CONTENTS

Table of Authoritiesii

Statement of Issues on Appeal 1

Statement of the Case.....2

Arguments 3

 I. The Court of Appeals erred in finding Appellant had no standing
 as a successful bidder to contest an Order overturning the sale..... 3

 II Intervention was not possible in this case. 4

 III. The Order of the Court of Appeals essentially allows the lower
 court to hold a hearing without a successful bidder in violation
 of due process. 5

 IV. The Court of Appeals did not address the method of handling
 public sales and the right of those successful bidders to be heard. 8

 V. The Court of Appeals erred in holding this sale was not final
 as to Wilkes. 10

 VI. A single Judge of the Court of Appeals may not issue a dispositive
 Order. 10

Conclusion..... 11

TABLE OF AUTHORITIES

Cases

| | |
|---|------|
| <i>Bakala v. Bakala</i> , 352 S.C. 612, 576 S.E.2d 156 (Ct.App. 2003) | 3 |
| <i>Blanton v. Stathos</i> , 351 S.C. 534, 570 S.E.2d 565 (S.C.App. 2002) | 6, 8 |
| <i>Brown v. Malloy</i> , 345 S.C. 113, 546 S.E.2d 195 (Ct.App. 2001)..... | 5, 6 |
| <i>Charleston County School District v. Charleston County Election Comm.</i> , 336 S.C. 174, 519 S.E.2d 567 (S.C. 1999) | 3 |
| <i>Ex parte Reichlyn</i> , 310 S.C. 495, 427 S.E.2d 661 (S.C. 1993) | 4 |
| <i>Dibble v. Bryant</i> , 274 S.C. 481, 486, 265 S.E.2d 673, 676 (1980)..... | 6, 7 |
| <i>First Union National Bank v. Soden</i> , 333 S.C. 554, 511 S.E.2d 372 (S.C.App. 1998)..... | 3 |
| <i>Grannis v. Ordean</i> , 234 U.S. 385, 34 S.Ct. 779, 58 L.Ed. 1363 (1914) | 7 |
| <i>In Re Horry County State Bank</i> , 361 S.C. 503, 604 S.E.2d 723 (S.C.App. 2004) | 4 |
| <i>Investors Savings Bank v. Phelps</i> , 303 S.C. 15, 397 S.E.2d 780 (Ct. App. 1990)..... | 9 |
| <i>Kelly v. Bank of America</i> , 379 S.C. 437, 665 S.E.2d 237 (S.C. App. 2008) | 3 |
| <i>Latham v. Town of York</i> , 210 S.C. 565, 43 S.E.2d 467 (1947)..... | 6 |
| <i>Lowndes Products, Inc. v. Brower</i> , 259, S.C. 322, 191 S.E.2d 761, (appeal after remand) 262 S.C. 431, 205 S.E.2d 184, (1972)..... | 6 |
| <i>Mullane v. Central Hanover Bank & Trust Co.</i> , 339 U.S. 306, 70 S.Ct. 652, 94 L.Ed. 865 (1950)..... | 7 |
| <i>Murdock v. Murdock</i> , 338 S.C. 322, 526 S.E.2d 241 (Ct.App. 1999)..... | 6 |
| <i>Shaw v. City of Charleston</i> , 351 S.C. 32, 567 S.E.2d 530 (S.C. App. 2002)..... | 3 |
| <i>Shealey v. Seaboard Air Line Ry. Co.</i> , 131 S.C. 144, 126 S.E. 622 (1924)..... | 6 |
| <i>Stono River Envtl. Protection Ass'n v. South Carolina Dept. of Health & Envtl Control</i> , 305 S.C. 90, 406 S.E.2d 340 (1991) | 5 |
| <i>Universal Benefits, Inc. v. McKinney</i> , 349 S.C. 179, 561 S.E.2d 659 (Ct.App. 2002)..... | 7 |
| <i>Wells Fargo Bank, NA v. Turner</i> , 378 S.C. 147, 662 S.E.2d 424 (S.C. App. 2008) | 8, 9 |

Rules

| | |
|--------------------|--------|
| SCACR 201(b) | 2 |
| SCACR 220 | 10, 11 |
| SCACR 240 | 10 |

S. C. Constitution

| | |
|----------------------------|----|
| Article I, Section 3 | 8 |
| Article V, Section 7..... | 10 |

STATEMENT OF ISSUES ON APPEAL

- I. Did the Court of Appeals err in finding Appellant had no standing as a successful bidder to contest an Order overturning the sale?
- II. Did the Court of Appeals err in holding Appellant could have intervened in this case after judgment?
- III. Did the Court of Appeals err in failing to hold the procedure used by the Master deprived Appellant due process?
- IV. Did the Court of Appeals err in not addressing the rights of successful bidders at a sale?
- V. Did the Court of Appeals err in holding this was not a final Order as to Appellant?
- VI. Did the Court of Appeals err in holding a single judge may issue a dispositive ruling?

STATEMENT OF THE CASE

This matter is before the Court based on the appeal of the successful bidder (Appellant) at a foreclosure sale on February 7, 2011. Thereafter, Appellant made payment in cash to the Master of \$18,000.00 as was required pursuant to the sale order. The Master vacated the sale on February 15, 2011 without prior notice and an opportunity to be heard by Wilkes who had already complied with the Court Order. One Judge of the Court of Appeals dismissed this case without hearing. A panel of that Court denied the Petition for Rehearing. The Appellant contends that the Order of the Court of Appeals dismissing the case does not address important legal issues including the following:

1. When an order affects a person who has not been named as a party, are they aggrieved under SCACR 201(b)?
2. Can the lower court issue an *ex parte* Order without Appellant's right to be heard and prior notice?
3. Is due process implicated when an order of the court is vacated without prior notice and an opportunity to be heard?
4. Can one Judge of the Court of Appeals dismiss a case?.

ARGUMENT

I. THE COURT OF APPEALS ERRED IN FINDING APPELLANT HAD NO STANDING AS A SUCCESSFUL BIDDER TO CONTEST AN ORDER OVERTURNING THE SALE.

Wilkes asserts he has standing to proceed with the appeal because he was “aggrieved” by an order of the trial court and was never given notice and an opportunity to be heard.¹ The injury to Wilkes is the result of the lower court vacating an order of sale where he was the successful bidder. It is without dispute that a successful bidder at a foreclosure sale has vested property rights which must be protected. See *Kelly v. Bank of America*, 379 S.C. 437, 665 S.E.2d 237 (S.C. App. 2008) (a party is aggrieved by a judgment or degree for purposes of determining whether a party can appeal). (The word “aggrieved” in the rule allows only persons aggrieved by the order....to appeal, refers to substantial grievance, denial of some personal or property right.) *Shaw v. City of Charleston*, 351 S.C. 32, 567 S.E.2d 530 (S.C. App. 2002).

In this case, Wilkes had a vested property right (consistent with due process) once he was the successful bidder. His property rights are directly affected by the *ex parte* order of the Master and Appellant has suffered the loss of real property without even a hearing or notice of the hearing.² *First Union National Bank v. Soden*, 333 S.C. 554, 511 S.E.2d 372 (S.C.App. 1998). See also *Charleston County School District v. Charleston County Election Comm.*, 336 S.C. 174, 519 S.E.2d 567 (S.C. 1999) (State election commission named in circuit court order had standing to pursue an appeal.).

¹ Even to this day, Appellant has never been given an opportunity to be heard by any Court.

² This Court has held that *ex parte* communications are strongly disfavored. Also prejudice must be shown to obtain a reversal on this ground. *Bakala v. Bakala*, 352 S.C. 612, 576 S.E.2d 156 (Ct.App. 2003). (It can hardly be argued that Appellant was prejudiced since the lower court without notice overturned his successful bid.)

Accordingly, it is respectfully submitted that the Court of Appeals erred in holding that Wilkes could not appeal an Order when he was the successful bidder and obtained vested property rights under that Order. Wilkes in effect was made a party by complying with the foreclosure sale order and making the \$18,000.00 deposit as required by the lower court at the close of the sale.

II. INTERVENTION WAS NOT POSSIBLE IN THIS CASE.

The Order of the Court of Appeals (by a single Judge) seems to indicate that Wilkes should have intervened in this case. However, such was not possible. The Master had held a hearing *ex parte* without Appellant (the successful bidder) and issued a final order vacating his bid (without notice). Further, the case law would not have allowed him to intervene after a final order was entered. See *Ex parte Reichlyn*, 310 S.C. 495, 427 S.E.2d 661 (S.C. 1993) (intervention denied after consent order entered by the Court). See also *In Re Horry County State Bank*, 361 S.C. 503, 604 S.E.2d 723 (S.C.App. 2004) (party must establish timely application in order to intervene).

In this case, intervention would not have been allowed and would not have tolled Wilkes' right to appeal. By the time Wilkes was advised that the order had been vacated after the sale, Wilkes had no choice but to appeal the court's ruling. Thus, exigent circumstances were involved in this case which prevented intervention and an appeal was the only option.

III. THE ORDER OF THE COURT OF APPEALS ESSENTIALLY ALLOWS THE LOWER COURT TO HOLD A HEARING WITHOUT A SUCCESSFUL BIDDER IN VIOLATION OF DUE PROCESS.

The Court of Appeals Order does not consider the due process violations of the trial court in holding a hearing without notice and opportunity to be heard by Wilkes (an aggrieved party who was the winning bidder). The record clearly reveals Wilkes was the successful bidder at a court ordered sale on February 7, 2011. On February 15, 2011, the Master-in-Equity vacated the sale unbeknownst to Wilkes without notice. The Master-in-Equity, in her Order wrote:

The Plaintiff and certain Defendants, after consulting with the Master-in-Equity, determined that the appropriate course of action would be to vacate the sale, republish notice thereof with the specific liens listed therein and post a new sale date. The successful bidders at the sale of February 7, 2011 would also be released from their current bids and any deposits returned... (See Order of Cynthia Graham Howe dated February 14, 2011). (R. p. 2)

After the Order was issued, Wilkes, the successful bidder, discovered that the sale had been vacated. Wilkes was never given the opportunity to appear before the Master-in-Equity, nor was he told of the *ex parte* meeting with the Master-in-Equity, nor was he told that the Master-in-Equity had meet with certain Defendants and the Plaintiff. The procedure employed by the Master-in-Equity in deciding to vacate her Order of Sale violates due process of law because Wilkes was not given the opportunity to be heard by the Court. The Court of Appeals also erred in affirming this decision.

In South Carolina, due process is flexible and calls for such procedural protections as the particular situation demands. *Stono River Env'tl. Protection Ass'n v. South Carolina Dept. of Health & Env'tl Control*, 305 S.C. 90, 406 S.E.2d 340 (1991); *Brown v. Malloy*, 345 S.C. 113, 546 S.E.2d 195 (Ct.App. 2001). Further procedural due process mandates that a litigant such as Appellant be placed on notice of the issues which the court is to consider

prior to the court making a ruling. *Murdock v. Murdock*, 338 S.C. 322, 526 S.E.2d 241 (Ct.App. 1999).

There are numerous South Carolina cases which hold that the litigant be given an opportunity to meet an issue before an adverse determination is made. Petitioner cites the case of *Lowndes Products, Inc. v. Brower*, 259, S.C. 322, 191 S.E.2d 761, (appeal after remand) 262 S.C. 431, 205 S.E.2d 184, (1972) (litigant entitled to a hearing before adverse determination made); see also, *Latham v. Town of York*, 210 S.C. 565, 43 S.E.2d 467 (1947) (order denying on the merits an application for permanent injunction was erroneous as a denial of due process, where order was entered on the pleadings of the parties without hearing of evidence, and there was no demurrer to the complaint); *Shealey v. Seaboard Air Line Ry. Co.*, 131 S.C. 144, 126 S.E. 622 (1924) (due process of law means having a hearing before final judgment); *Blanton v. Stathos*, 351 S.C. 534, 570 S.E.2d 565 (2002) (it is a fundamental doctrine of the law that a party whose personal rights are to be affected by a personal judgment must have a day in court, or opportunity to be heard, and that without due notice and opportunity to be heard a court has no jurisdiction to adjudicate such personal rights); *Brown v. Malloy*, 345 S.C. 113, 546 S.E.2d 195 (2001) (a party must be given opportunity to be heard before court makes a decision or court has no jurisdiction to adjudicate such personal rights).

Petitioner also refers the Court to *Dibble v. Bryant*, 274 S.C. 481, 486, 265 S.E.2d 673, 676 (1980). In *Dibble*, a notice of sale was attached to an abandoned property and then later sold. The Court, in reviewing the facts of the case, found that it was insufficient notice to attach a notice of tax sale on the abandoned property in order to sell it.

This Court stated:

It is a well-established principal that due process of law requires some sort of notice to a landowner before he is deprived of his property. It is an anomalous situation that the statutes of the state, require actual notice to a mortgagee of land about to be sold for taxes and make no such requirement for actual notice to the owner.

We hold that this sole act of tacking a notice of sale in the name of the prior owner to the front of an abandoned building on property subject to an outstanding mortgage lien fails to give reasonable notice to the parties in interest as required by due process and statute. 265 S.E.2d at 674.

Here, the Court of Appeals in its order affirming the decision of the Master fails to take notice that Wilkes' due process rights were denied and that he had a right to contest the Order of the Master (or at least be heard). The Due Process Clause of the United States Constitution demands notice reasonably calculated under all circumstances to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 70 S.Ct. 652, 94 L.Ed. 865 (1950) (It is a fundamental doctrine of law that a party whose personal rights are to be affected by a judgment or decision must have their day in court or opportunity to be heard, and without due process and opportunity to be heard, a court has no jurisdiction to adjudicate such rights.) It is respectfully submitted that the Court of Appeals in failing to issue its Order finding a violation of due process has compounded the error. In this case, the Master-in-Equity's own Order and letter clearly indicate that Wilkes was the successful bidder and he was not advised that the sale was going to be vacated. Procedural due process required Wilkes be given notice and the opportunity to be heard in a meaningful way along with judicial review. *Grannis v. Ordean*, 234 U.S. 385, 34 S.Ct. 779, 58 L.Ed. 1363 (1914); *Universal Benefits, Inc. v. McKinney*, 349 S.C. 179, 561 S.E.2d 659 (Ct.App. 2002). Further, the Court of Appeals in dismissing the appeal does not address the

constitutional injury suffered by Wilkes which is overarching in this case. Wilkes' due process rights were compromised because the sale was vacated without notice and opportunity to be heard after he was the successful bidder in open Court. *Blanton v. Stathos*, 351 S.C. 534, 570 S.E.2d 565 (S.C.App. 2002) (Procedural due process mandates a litigant has a right to be heard and be given notice of issues before the court.).

Article I, Section 3 of the South Carolina Constitution provides that no "person shall be deprived of life, liberty or property without due process of law nor shall any person be denied the equal protection of the law...." This clause has been construed many times by this Court to extend both procedural and substantive protections. The procedural due process component of this constitutional provision guarantees that a person have an opportunity to be heard at a meaningful time and in a meaningful manner before he is deprived of any life, liberty or property right. This due process guaranty insures a fair decision making process before the government impairs a person's life, liberty or property rights. Petitioner believes that at the very least he was entitled to a hearing since he was the successful bidder and that failure to provide him with a hearing is fatal to the Order of the Master and the Court of Appeals which affirmed the Master.

IV. THE COURT OF APPEALS DID NOT ADDRESS THE METHOD OF HANDLING PUBLIC SALES AND THE RIGHT OF THOSE SUCCESSFUL BIDDERS TO BE HEARD.

Wilkes respectfully suggests that the Court of Appeals in issuing its Order does not discuss that the lower court's Order was issued in violation of established South Carolina precedent through an *ex parte* hearing without notice to Wilkes. The procedure is set down in *Wells Fargo Bank, NA v. Turner*, 378 S.C. 147, 662 S.E.2d 424 (S.C. App. 2008). In *Wells Fargo*, the successful bidder at an auction paid \$3,000.00 for the property. Thereafter,

the bank served the successful bidder a Motion to Set Aside and Vacate Sale. The Bank argued the sale should be set aside because: (1) the Bank's attorney failed to take all necessary steps to ensure the Bank would have a representative present and prepared to bid at the sale; and (2) the successful bid of \$3,000.00 was so low as to shock the conscience of the court. (378 S.C. at 150 and 662 S.E.2d at 425).

In *Wells Fargo*, the trial court held a hearing on the Bank's Motion to Set Aside and Vacate Sale and gave notice to the successful bidder. In this case no motion was filed, the court held no hearing with Wilkes, but apparently had *ex parte* communications with National Bank of South Carolina and certain other Defendants.³ Appellant respectfully suggests to this Court that the procedure used by the lower court was an error which the Court of Appeals did not address in its Order. It is fundamental that a successful bidder as an interested party should have been advised by the trial court of its intent to set aside and/or vacate the sale. At that time, the trial court should have employed the reasoning in *Investors Savings Bank v. Phelps*, 303 S.C. 15, 397 S.E.2d 780 (Ct. App. 1990) which provides that the trial court must determine whether to set aside a judicial sale and such will be left to the sound discretion of the trial court. Implicit in that holding is that constitutional protections would be granted to the successful bidder to be heard and present arguments on why the sale should not be overturned. Wilkes respectfully suggests that the Court of Appeals erred in not reversing this case on that point.

³ Counsel only entered an appearance in this case after Wilkes was informed the Master had overturned the sale, but not in time to file a motion for reconsideration.

V. **THE COURT OF APPEALS ERRED IN HOLDING THIS SALE WAS NOT FINAL AS TO WILKES.**

The Court of Appeals in its Order by single member asserts that this is not a final Order since the property will be resold. However, this statement begs the question that Wilkes was the successful bidder at the sale and had already paid an \$18,000.00 deposit. (Thus, he had vested property rights.) The sale was final as to him and he is aggrieved by the *ex parte* decision of the Master to allow a new sale without notice and the right to be heard. As has already been stated, Wilkes had the right to appear and argue before the Master that the Court should not set aside the sale before it was actually decided by the Master. Due process means that any decision regarding Wilkes' successful bid allowed him notice and the right to be heard prior to the Order being issued. Under the terms of the Master's Order, a new sale will be held without Wilkes being able to argue that the prior sale was final. It is entirely possible that a new bidder could purchase the property leaving Wilkes with no remedy at all.

VI. **A SINGLE JUDGE OF THE COURT OF APPEALS MAY NOT ISSUE A DISPOSITIVE ORDER.**

The Appellant received an Order signed by a single Judge of the Court of Appeals dismissing this case.⁴ Appellant is not aware of any motions or petitions filed in this case pursuant to SCAR 240. Appellant cannot find any authority for one judge of the Court of Appeals to dismiss this case *sui sponte*. Appellant was under the impression that in order to issue an opinion in this matter, such opinion would require the decision of three judges of the Court of Appeals pursuant to SCAR 220.⁵ Accordingly, Appellant respectfully requests

⁴ Article V, Section 7 of the South Carolina Constitution provides: "...The Court of Appeals shall sit in panels."

⁵ SCAR 220(a) Opinions. The appellate court shall make its decisions in writing by published opinions or memorandum opinions, with any concurring or dissenting opinions attached.

that this Court reverse the Court of Appeals Order as there was no motion before it and any such opinion would have required a decision by three members of the Court of Appeals.⁶ Further, counsel believes that the issues in this case are of a constitutional nature since they involve the successful bidder's right to a hearing and notice prior to an order being vacated by the Master-in-Equity.

CONCLUSION

Petitioner believes that this case involves important constitutional and public policy considerations of statewide importance. First, Petitioner was injured because he was the successful bidder at a Master's sale which was overturned *ex parte* by the Master. Second, a single judge of the Court of Appeals dismissed this case without a hearing. Third, Master's Sales are occurring on a daily basis throughout the State and this Court should set a bright line rule which protects a successful bidder's right to a hearing after the sale. Fourth, Appellant's constitutional rights of due process were violated when the Master overturned the sale without giving the Petitioner notice and opportunity to be heard.

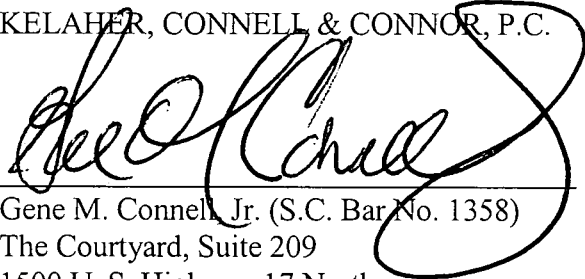
In sum, this case involves the fundamental right to be heard by a court before a decision is made affecting his or her rights. Here, Petitioner's constitutional due process rights were impaired when a decision was made by the lower court *ex parte* in violation of principles of fundamental fairness. The bedrock principle of our system of justice allows an aggrieved party to be heard before a ruling is issued affecting his or her rights. In this case, the Appellant was deprived of that right in violation of the United States and South Carolina Constitutions

⁶ The original Order is signed by Judge Few only and not in compliance with SCAR 220.

Accordingly, for the reasons set forth above, Wilkes respectfully requests that the Court reverse the Orders of the Court of Appeals and set this matter down for hearing because there are important legal and constitutional principles at stake. Finally, the Court should set a bright line in these types of cases to protect the successful bidders' constitutional rights to be heard prior to the lower court issuing an order overturning a successful bid at a sale.

Respectfully submitted,

KELAHER, CONNELL & CONNOR, P.C.



Gene M. Connell, Jr. (S.C. Bar No. 1358)

The Courtyard, Suite 209

1500 U. S. Highway 17 North

Post Office Drawer 14547

Surfside Beach, South Carolina 29587-4547

(843) 238-5648 (phone)

(843) 238-5050 (facsimile)

gconnell@classactlaw.net

Attorney for Petitioner

April 2, 2014
Surfside Beach, South Carolina.

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Cynthia Graham Howe,
Master-in-Equity for Horry County

Order (S.C. Ct. App. filed June 6, 2012)

Ex Parte Coastal Designs, Inc. and Tim Wilkes..... Petitioner

vs.

In Re: SRB Servicing, LLC, successor by assignment to Synovus Bank,
formerly known as Columbus Bank and Trust Company,
as successor in interest through name change and by merger with
the National Bank of South Carolina..... Respondent

vs.

Myrtle Beach Grande Hotel, LLC, Harvey L. Jones,
Wendy Jones (J.) Bellamy, Billy Joe (J.) Bellamy,
Kersi S. Shroff, Mazingo & Wallace Architects, LLC,
Harvey Levon Jones and Wendy Beth Jones Bellamy
as Personal Representatives of the Estate of Ann L. Jones,
and as Trustee of the Restated and Amended Trust Agreement
of Ann L. Jones, dated October 30, 2006..... Respondents.

PROOF OF SERVICE

PERSONALLY appeared before me, Shelia Y. McCumbee, who being duly sworn,
deposes and says that she is an employee of Kelaher, Connell & Connor, P.C., Attorneys at
Law, and that she has served the **Brief of Petitioner** on the Respondents, through attorneys
of record, by depositing a copy of same in the United States Mail, postage prepaid, to:

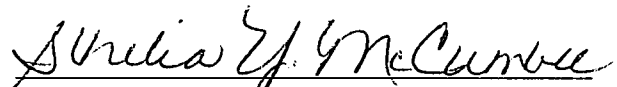
Joseph F. Singleton, Esquire
Kathryn H. Sligh, Esquire
Singleton Burroughs & Young, PA
P. O. Box 1244
Conway, SC 29528

Scott B. Umstead, Esquire
Scott B. Umstead, P A
4226 Mayfair Street, Suite 100
Myrtle Beach, SC 29577


Susan P. MacDonald, Esquire
Nelson, Mullins, Riley & Scarborough LLP
3751 Robert M. Grissom Parkway, Suite 300
Myrtle Beach, SC.29577

Kathryn M. Cook, Esquire
Cook and Roy, P.C.
PO Box 4086
North Myrtle Beach, SC 29597

DATE OF MAILING: April 2, 2014


Shelia Y. McCumbee

SWORN AND SUBSCRIBED before me,
this 2nd day of April, 2014


Notary Public for South Carolina
My Commission Expires: 2-17-19

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

APR 03 2014

S.C. SUPREME COURT

APPEAL FROM Horry COUNTY
Court of Common Pleas

The Honorable Cynthia Graham Howe,
Master-in-Equity for Horry County

Order (S.C. Ct. App. filed June 6, 2012)

RECEIVED

APR 03 2014

S.C. SUPREME COURT

Ex Parte Coastal Designs, Inc. and Tim Wilkes..... Petitioner

vs.

In Re: SRB Servicing, LLC, successor by assignment to Synovus Bank,
formerly known as Columbus Bank and Trust Company,
as successor in interest through name change and by merger with
the National Bank of South Carolina..... Respondent

vs.

Myrtle Beach Grande Hotel, LLC, Harvey L. Jones,
Wendy Jones (J.) Bellamy, Billy Joe (J.) Bellamy,
Kersi S. Shroff, Mazingo & Wallace Architects, LLC,
Harvey Levon Jones and Wendy Beth Jones Bellamy
as Personal Representatives of the Estate of Ann L. Jones,
and as Trustee of the Restated and Amended Trust Agreement
of Ann L. Jones, dated October 30, 2006..... Respondents.

PROOF OF SERVICE

PERSONALLY appeared before me, Shelia Y. McCumbee, who being duly sworn,
deposes and says that she is an employee of Kelaher, Connell & Connor, P.C., Attorneys at
Law, and that she has served the **Appendix** on the Respondents, through attorneys of
record, by depositing a copy of same in the United States Mail, postage prepaid, to:

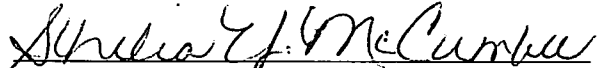
Joseph F. Singleton, Esquire
Kathryn H. Sligh, Esquire
Singleton Burroughs & Young, PA
P. O. Box 1244
Conway, SC 29528

Scott B. Umstead, Esquire
Scott B. Umstead, P A
4226 Mayfair Street, Suite 100
Myrtle Beach, SC 29577


Susan P. MacDonald, Esquire
Nelson, Mullins, Riley & Scarborough LLP
3751 Robert M. Grissom Parkway, Suite 300
Myrtle Beach, SC.29577

Kathryn M. Cook, Esquire
Cook and Roy, P.C.
PO Box 4086
North Myrtle Beach, SC 29597

DATE OF MAILING: April 2, 2014


Shelia Y. McCumbee

SWORN AND SUBSCRIBED before me,
this 2nd day of April, 2014



Notary Public for South Carolina
My Commission Expires: 2-17-19