

**THE STATE OF SOUTH CAROLINA
In The South Carolina Court of Appeals**

**APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas**

Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2014-000148

RECEIVED
APR 13 2014
SC Court of Appeals

Alexander Pastene.....Appellant,

v.

**Thomas Trobough, Mr. & Mrs. Norman Ginsburg,
W. Richard Beetle, Country Club of Hilton Head,
ClubCorp. of Dallas, TX, CCHH Tennis Committee Members.....Respondents.**

MOTION TO DISMISS

The Respondents, Thomas Trobough and Norman Ginsburg, pursuant to Rule 240 of the South Carolina Appellate Court Rules, hereby move for the Appeal to be dismissed on the following grounds:

1. The Initial Brief of the Appellant was not timely served. The Certificate of Mailing indicates it was mailed on March 28, 2014. There is a handwritten notation on the Certificate of Mailing indicating the date of April 3, 2014. A copy of the Certificate of Mailing is attached to this Motion to Dismiss as Exhibit 1. The mailer from the United States Postal Service indicates that the Initial Brief was in fact mailed on April 4, 2014. A copy of the United States Postal Service mailer is attached as Exhibit 2.

2. The Initial Brief does not comply with Rule 208 of the South Carolina Appellate Court Rules. The "Table of Authorities" cites cases that are nowhere to be found in the Initial Brief. The Arguments do not make any attempt to argue the "Statement of Issues on Appeal."

3. The Arguments of the Appellant do not provide any legal argument whatsoever. They are simply statements with no evidentiary or legal arguments.

4. The Statement of the Case does not contain a concise history of the proceedings and is replete with contested matters. The Statement of the Case does not comply with Rule 208(C).

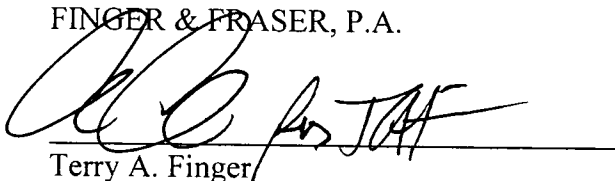
5. The Appellant has failed to serve and file a Designation of Matter to be Included in the Record on Appeal as required under Rule 209 of the South Carolina Appellate Court Rules.

6. The Initial Brief was not timely filed. In a prior submission to the Court of Appeals, Appellant indicated that he received the Transcript on or about November 8, 2013. This Transcript was ordered in a prior Appeal that was dismissed by the Court of Appeals. The instant Notice of Appeal is dated December 20, 2013. Accordingly, the Initial Brief should have been filed and served within thirty (30) days after the Notice of Appeal. The submission of the "Initial Brief" received on April 7, 2014 is not timely.

The Respondents, Thomas Trobough and Norman Ginsberg, respectfully request that the Court dismiss the Appeal of the Appellant.

April 15, 2014

FINGER & FRASER, P.A.



Terry A. Finger
35 Hospital Center Common, Suite 200
P. O. Box 24005
Hilton Head Island, SC 29925
(843) 681-7000

*Attorneys for Respondents
Thomas Trobough and Norman Ginsburg*

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BY:

THE STATE OF SOUTH CAROLINA
In The SC Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Carmen T. Mullen, Circuit Court Judge

S.C. Court of Appeals Case No: 2014-000148

ALEXANDER PASTENE,

Appellant,

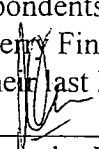
v.

THOMAS TROBOUGH, MR & MRS
NORMAN GINSBURG, W. RICHARD
BEETLE, COUNTRY CLUB OF HILTON
HEAD, CLUBCORP OF DALLAS, TX.,
CCHH TENNIS COMMITTEE MEMBERS


Respondents.

CERTIFICATE OF MAILING


The Appellant, Alexander Pastene, certifies that on this 28th day of March, 2014, he mailed copies of his Initial Brief to counsel Mary B. Lohr (for respondents Richard Beetle, CCHH, ClubCorp, CCHH Tennis Committee, et al) and attorney Terry Finger (Counsel for respondents Thomas Trobough and Norman Ginsburg), via USPS, to their last known addresses, P.O. Box 40 Beaufort SC and PO Box 24005 HHI, SC. Signed by:

4-3-14

Alexander Pastene.

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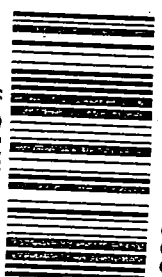
TO:

*Mr. Clem Fugh Esq.
 10 Dot 29005
 Hilton Head A. S.C.
 29925*

*Mr.
 10 Dot 29005
 Hilton Head 29925*

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STATES SERVICE®

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Also admitted in:
* Georgia
† New York

□ Court Certified Mediator
• Court Certified Arbitrator / Mediator

April 15, 2014

The Honorable V. Claire Allen
Deputy Clerk
The South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

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APR 18 2014

SC Court of Appeals

**Re: Thomas Trobaugh, Norman Ginsburg, et al.
adv. Alexander Pastene
Civil Action No.: 2011-CP-07-04407
Our File No.: 3851.001**

Dear Ms. Allen:

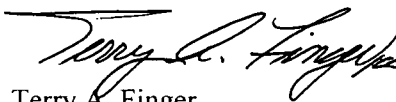
Enclosed please find originals and seven (7) copies of a Motion to Dismiss and Certificate of Service in the captioned matter. Please file the originals and return time-stamped copies to me in the envelope provided for your convenience. Also enclosed please find a \$25.00 check representing the requisite filing fee.

By copy of this letter to Mr. Pastene and Mary B. Lohr, Esquire, I am informing them of this communication.

Thank you for your assistance in this regard.

Very truly yours,

FINGER & FRASER, P.A.


Terry A. Finger

TAF/cc

Enclosures

cc: Mr. Alexander Pastene
Mary B. Lohr, Esquire
Mr. Norman Ginsburg
Mr. Thomas Trobaugh

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ClubCorp. of Dallas, TX, CCHH Tennis Committee Members.....Respondents.

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that I, Catherine Carstensen, Legal Assistant to Terry A. Finger, Esquire, Attorney for Respondents, Thomas Trobough and Norman Ginsburg, have this day mailed a true and accurate copy of a Motion to Dismiss in the above-captioned matter to:

Mr. Alexander Pastene
P. O. Box 22298
Hilton Head Island, SC 29925

Mary B. Lohr, Esquire
Howell, Gibson & Hughes, P.A.
P. O. Box 40
Beaufort, SC 29901

via U.S. Postal Service with first class postage prepaid.


Catherine Carstensen

Hilton Head Island, South Carolina

April 15, 2014