

IN THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY  
Court of Common Pleas

Honorable Steven H. John, Circuit Court Judge

Civil Action No.: 2011-CP-26-2722

**RECEIVED**

JUL 30 2014

**SC Court of Appeals**

Nichols Holding, LLC and J. Wade Nichols ..... Respondents-Appellants

vs.

Divine Capital Group, LLC, John S. Divine, IV,  
Nathan Anderson and Divine Dining Group, Inc. .... Appellants-Respondents

APPELLANTS-RESPONDENTS DIVINE CAPITAL GROUP, LLC,  
JOHN S. DIVINE, IV, NATHAN ANDERSON AND DIVINE DINING  
GROUP, INC.'S DESIGNATION OF MATTER

Appellants-Respondents Divine Capital Group, LLC, John S. Divine, IV, Nathan  
Anderson and Divine Dining Group, Inc. propose the following to be included in the  
Record on Appeal:

ORDERS:

1. Order Denying Defendants' Motion to Alter/Amend Order dated February 25, 2014
2. Order Denying Plaintiff's Motion for Reconsideration dated February 25, 2014
3. Order Compelling Settlement dated January 6, 2014

4. Form 4 Order on Defendants' Motion to Enforce Settlement dated December 4, 2013
5. Order Appointment Receiver and Allowing Intervention by Crescom Bank filed May 25, 2012
6. Consent Order filed in Horry County on February 20, 2012

PLEADINGS:

7. Motion of John S. Divine, IV to Enforce Settlement Agreement filed June 6, 2013
8. Affidavit of Fred Newby dated August 23, 2013
  - a. Exhibit A – Fidelity National Title Insurance Company Owner's Affidavit
  - b. Exhibit B – Fidelity National Title Insurance Company Owner's Affidavit
  - c. Exhibit C – Letter dated June 17, 2013, from Tommie Kennedy, Engineering Director for Georgetown County Water and Sewer District to Gene M. Connell, Jr.
9. Affidavit of Arlene Jaskot dated August 23, 2013
  - a. Exhibit A – Devine's Fish House Restaurant -Trade Debt Adjusted 08-19-13
  - b. Exhibit B – Bovines Restaurant -Trade Debt Adjusted 08-19-13
10. Affidavit of John S. Divine, IV, filed November 26, 2013
  - a. Exhibit A – Settlement Agreement and Release in Full
  - b. Exhibit B – Agreement of Purchase and Sale
  - c. Exhibit C – All documents (numbered J.S. Divine Affidavit 49-135)
  - d. Exhibit D – All documents (numbered J.S. Divine Affidavit 136-210)
  - e. Exhibit E – All documents (numbered J.S. Divine Affidavit 211-215)
  - f. Exhibit F – All documents (numbered J.S. Divine Affidavit 216-226)
  - g. Exhibit G – All documents (numbered J.S. Divine Affidavit 227-230)
  - h. Exhibit H – All documents (numbered J.S. Divine Affidavit 231-234)
  - i. Exhibit I – All documents (numbered J.S. Divine Affidavit 235-296)

- j. Exhibit J – All documents (numbered J.S. Divine Affidavit 297-375)
- k. Exhibit K – All documents (numbered J.S. Divine Affidavit 376-377)
- l. Exhibit L – All documents (numbered J.S. Divine Affidavit 378-381)
- m. Exhibit M – All documents (numbered J.S. Divine Affidavit 382-384)
- n. Exhibit N – All documents (numbered J.S. Divine Affidavit 385-386)
- o. Exhibit O – All documents (numbered J.S. Divine Affidavit 387-393)
- p. Exhibit P – All documents (numbered J.S. Divine Affidavit 394-400)
- q. Exhibit Q – All documents (numbered J.S. Divine Affidavit 401-402)
- r. Exhibit R – All documents (numbered J.S. Divine Affidavit 403-429)
- s. Exhibit S – All documents (numbered J.S. Divine Affidavit 430-457)

11. Affidavit of Julio E. Mendoza, Jr., Esquire, filed November 26, 2013

- a. Exhibit A – All documents (numbered J. Mendoza Affidavit 1-7)
- b. Exhibit B – All documents (numbered J. Mendoza Affidavit 8-16)
- c. Exhibit C – All documents (numbered J. Mendoza Affidavit 17-20)
- d. Exhibit D – All documents (numbered J. Mendoza Affidavit 21-31)
- e. Exhibit E – All documents (numbered J. Mendoza Affidavit 32-35)
- f. Exhibit F – All documents (numbered J. Mendoza Affidavit 36-39)
- g. Exhibit G – All documents (numbered J. Mendoza Affidavit 40-42)
- h. Exhibit H – All documents (numbered J. Mendoza Affidavit 155-158)
- i. Exhibit I – All documents (numbered J. Mendoza Affidavit 43-47)
- j. Exhibit J – All documents (numbered J. Mendoza Affidavit 48-49)
- k. Exhibit K – All documents (numbered J. Mendoza Affidavit 50-54)
- l. Exhibit L – All documents (numbered J. Mendoza Affidavit 55-58)
- m. Exhibit M – All documents (numbered J. Mendoza Affidavit 59-60)
- n. Exhibit N – All documents (numbered J. Mendoza Affidavit 61-63)

- o. Exhibit O – All documents (numbered J. Mendoza Affidavit 64-154)
- 12. Defendants Divine Capital Group, LLC, John S. Divine, IV, Nathan Anderson and Divine Dining Group, Inc.'s Notice of Motion and Motion to Alter or Amend Order Pursuant to Rule 59(e) SCRPC dated January 15, 2014
- 13. Plaintiff's Motion for Reconsideration filed January 17, 2014
- 14. Appellants-Respondents Notice of Appeal filed March 26, 2014
- 15. Respondents-Appellants Notice of Appeal filed March 27, 2014

TRANSCRIPT:

- 16. Transcript of hearing before the Honorable Steven H. John on December 4, 2013, pages 4, 5, 15, 16, 17, 19, 29, 30, 33, 43, 44, 45, 46, 48, 63, 64, 68, 70, 76, 81, 82, 83 and 84

PLAINTIFF'S EXHIBITS SUBMITTED AT HEARING HELD DECEMBER 4, 2013:

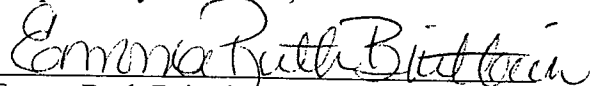
- 17. Exhibit 1 - Affidavit of Ernest Edwards dated December 2, 2013

**CERTIFICATION**

Pursuant to Rule 209, SCACR, I certify that this designation contains no matter which is irrelevant to this appeal.

July 28, 2014

Respectfully submitted,



Emma Ruth Brittain

Leah Montgomery Cromer

Thomas & Brittain, P.A.

Post Office Box 1290 (zip 29578)

1314 Professional Drive (zip 29577)

Myrtle Beach, South Carolina

Telephone: 843-692-2628

Fax: 843-692-0928

E-mail: [erbrittain@myrlaw.com](mailto:erbrittain@myrlaw.com)

*Attorneys for the Appellants-Respondents  
Divine Capital Group, LLC, John S. Divine,  
IV, Nathan Anderson and Divine Dining  
Group, Inc.*

Julio E. Mendoza, Jr., Esquire

Nexsen Pruet, LLC

Post Office Drawer 2426  
Columbia, South Carolina 29202  
[rmendoza@nexsenpruet.com](mailto:rmendoza@nexsenpruet.com)

Telephone: (803) 540-2026

Fax: (803) 727-1478

*Attorneys for the Appellants-Respondents  
Divine Capital Group, LLC, John S. Divine,  
IV, Nathan Anderson and Divine Dining  
Group, Inc.*

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PROOF OF SERVICE

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I certify that I have served the Appellants-Respondents Divine Capital Group, LLC, John S. Divine, IV, Nathan Anderson and Divine Dining Group, Inc.'s Designation of Matter by depositing a copy of it in the United States mail, postage prepaid, on July 28, 2014, addressed to the following:

Julio E. Mendoza, Jr., Esquire  
Nexsen Pruet, LLC  
Post Office Drawer 2426  
Columbia, South Carolina 29202

Gene M. Connell, Jr., Esquire  
Kelaher, Connell & Connor, P.C.  
Post Office Drawer 14547  
Surfside Beach, South Carolina, 29587

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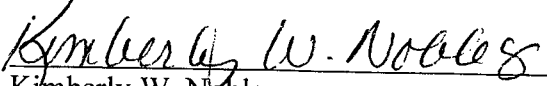
JUL 30 2014

**SC Court of Appeals**

Frederick Miles Adler, Esquire  
Post Office Box 4743  
Pawleys Island, South Carolina 29585

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

July 28, 2014

  
Kimberly W. Nobles  
Assistant to Emma Ruth Brittain, Esquire  
Thomas & Brittain, P.A.  
Post Office Box 1290 (zip 29578)  
1314 Professional Drive (zip 29577)  
Myrtle Beach, South Carolina  
Telephone: 843-692-2628  
Fax: 843-692-0928