

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
James R. Barber, III, Circuit Court Judge

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Case No. 2013-CP-40-6806

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Joseph Thomas, ..... Appellant,

v.

David A. Adams, an individual;  
Richland County Sheriff Leon Lott; John Doe,  
unknown alleged purchaser of property of Plaintiff, ..... Respondents.

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**RESPONDENTS' RETURN TO  
APPELLANT'S MOTION TO PROCEED  
IN FORMA PAUPERIS**

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The Appellant has filed a motion and affidavit requesting that the Court allow this appeal to be filed and proceed without the payment of costs. The Respondents David Adams and Sheriff Leon Lott oppose that motion and any request seeking to proceed in forma pauperis.

The Appellant's request to avoid the filing fee requirement and the payments of any costs on appeal is not permitted under South Carolina law. In the case of *Ex Parte: Martin v. State*, 321 S.C. 533, 471 S.E.2d 134 (1995), the South Carolina Supreme Court addressed the issue of granting motions to proceed in forma pauperis. The Court held that "[i]n the absence of a statutory provision allowing the general waiver of filing fees, we conclude motions to proceed in forma pauperis may only be granted where specifically authorized by statute or required by constitutional provisions." 471 S.E.2d at 134-135.

Later, in *Martin v. South Carolina Department of Corrections*, 350 S.C. 196, 565 S.E.2d 756 (2001), the Supreme Court required full payment of appellate filing fees by an indigent prisoner. The Court concluded that the statutes allowing a partial payment of the filing fees when an indigent prisoner brings a civil action do not apply to appellate filing fees incurred at either the Supreme Court or the Court of Appeals.

In the present case, there is no statutory provision allowing this Court to waive the payment of a \$100 filing fee as required pursuant to Rule 203(d), SCACR, under the circumstances presented by the Appellant. Rule 203(d), SCACR, provides only two exceptions: (1) for a criminal appeal, and (2) for an appeal by the State of South Carolina or its departments or agencies. Neither exception is applicable here. Moreover, the Appellant does not enjoy a constitutional right to an appeal nor

does his appeal involve the type of "fundamental rights" for which a waiver of the filing fee is appropriate. A fair reading of the Appellant's Complaint reflects that he sued the Respondents Adams and Lott for alleged tortious conduct arising from a delinquent tax sale.

For the foregoing reasons, the Respondents oppose the Appellant's request to proceed in forma pauperis or waive the requirement that the \$100 filing fee be paid to proceed with his appeal.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

BY:  \_\_\_\_\_

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(803) 806-8222

*Counsel for Respondents David Adams  
and Leon Lott*

Columbia, South Carolina

July 31, 2014

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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**SC Court of Appeals**

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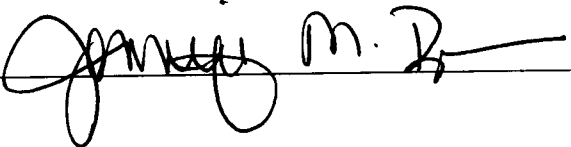
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**CERTIFICATE OF SERVICE**

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The undersigned employee of Davidson & Lindemann, P.A., counsel for the Respondents David Adams and Leon Lott, does hereby certify that service of the **Notice of Appearance and Respondents' Return to Appellant's Motion to Proceed in Forma Pauperis** in the above-captioned matter was made upon the *pro se* Appellant by placing copies in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this the 31st day of July 2014:

Mr. Joseph Thomas McQuatters  
Post Office Box 2224  
Irmo, South Carolina 29063



The Honorable Jenny Abbott Kitchings  
July 31, 2014  
Page Two

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cc: (w/ Enclosure)

Mr. Joseph Thomas McQuatters  
Post Office Box 2224  
Irmo, South Carolina 29063

# DAVIDSON & LINDEMANN, P.A.

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July 31, 2014

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

RE: Joseph Thomas v. David A. Adams, an individual; Richland County Sheriff Leon Lott; John Doe, unknown alleged purchaser of property of Plaintiff  
Appellate Case Number: 2014-001589  
Civil Action Number: 2013-CP-40-06806  
Our File Number: 314.9329

Dear Ms. Kitchings:

Please find enclosed for filing the original and one copy of the **Notice of Appearance**, as well as the original and seven copies of **Respondents' Return to Appellant's Motion to Proceed in Forma Pauperis** with regard to the above referenced matter. Please file the originals and return a clocked-in copy of each document to me in the enclosed envelope.

By copy of this letter, I am serving copies on the *pro se* Appellant.

Thank you for your assistance in this matter.

Sincerely,

DAVIDSON & LINDEMANN, P.A.



Andrew F. Lindemann

AFL/jmb  
Enclosures

**RECEIVED**

AUG 04 2014

**SC Court of Appeals**