



Vernee C. Hancock

Attorney at Law

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July 22, 2014

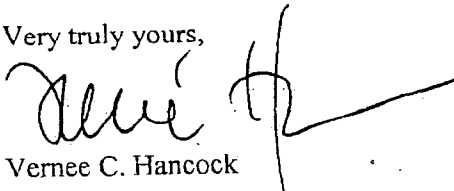
The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post office Box 11629
Columbia SC 29211

Re: Windswept Villas III Horizontal Property Regime vs. Elaine Devlin Peery
Case No.: 2009-DR-10-5799

Dear Ms. Kitchings:

Please find enclosed the original and two (2) copies of Proof of Service, Notice of Appeal and Certificate of Service dated July 17, 2014, and served upon Katie Fowler Monoc as attorney for Windswept Villas III Horizontal Property Regime. Also enclosed is our check for the filing fee of \$100.00, along with the following Orders regarding this case: Order on Judgment Creditor's Motion for Rule to Show Cause and Order for Contempt, and Order on Supplemental Proceedings. An Order on Judgment Debtor's Motion to Vacate should be enclosed, but it apparently has not been signed and/or filed, and has not been provided by opposing counsel, as of this date. That Order will be forthcoming when it has been served upon me by Katie Fowler Monoc. Please file the original and return two (2) stamped copies to me in the enclosed envelope.

Very truly yours,



Vernee C. Hancock

VCH/nac
Enclosures – as stated.

Cc: Katie Fowler Monoc, Esq. (w/encl.)
Hon. Julie J. Armstrong (w/encl.)

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-in-Equity

Case No. 2010-CP-10-5799

BY _____

JULIE J. ARMSTRONG
CLERK OF COURT

2014 JUL 25 PM 1:02

FILED

Windswept Villas III
Horizontal Property Regime,

Respondent,

v.

Elaine Devlin Peery a/k/a,
Elaine D. Peery,

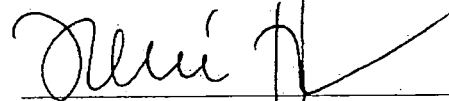
Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Respondent Windswept Villas III Horizontal Property Regime and the Clerk of the Trial Court by mailing a copy by first class mail, postage paid to the attorney for Respondent Windswept Villas III Horizontal Property Regime and the Clerk of the Trial Court:

Counsel of Record:
Katie Fowler Monoc
PO Drawer 22247
Charleston, South Carolina 29413-2247
Attorney for Respondent
(843) 727-2244

Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston SC 29401



Vernee C. Hancock, Esquire
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hancocklawfirm@gmail.com
Attorney for Appellant

July 22, 2014

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SC Court of Appeals

NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-in-Equity

Case No. 2010-CP-10-5799

Windswept Villas III
Horizontal Property Regime,

Respondent,

v.

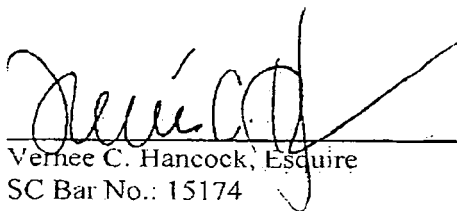
Elaine Devlin Peery a/k/a,
Elaine D. Peery,

Appellant.

NOTICE OF APPEAL

Elaine D. Peery appeals the written orders and judgment of the Honorable Mikell R. Scarborough dated June 26, 2014. Appellant received written notice of entry of this written order and judgment on July 3, 2014.

July 17, 2014.



Vernee C. Hancock, Esquire
SC Bar No.: 15174
Post Office Box 2276
Summerville, South Carolina 29484
(843) 851-1476
Attorney for Appellant

Other Counsel of Record:
Katie Fowler Monoc
PO Drawer 22247
Charleston, South Carolina 29413-2247
Attorney for Respondent
(843) 727-2244

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SC Court of Appeals



Vernee C. Hancock

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Post Office Box 2276, Summerville, South Carolina 29484

Vernee C. Hancock, Esq.

E-Mail: hancocklawfirm@gmail.com

July 17, 2014

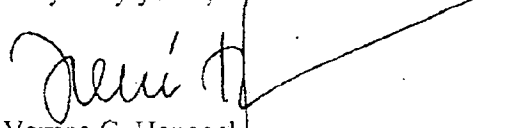
Katie F. Monoc, Esquire
Pratt-Thomas Walker
P.O. Drawer 22247
Charleston, SC 29413-2247

Re: Windswept Villas III Horizontal Property Regime v. Elaine Devlin Peery a/k/a Elaine D. Peery
Case No. 2010-CP-10-5799

Dear Katie:

Enclosed please find the Notice of Appeal in the above matter which I hereby serve upon you.

Very truly yours,


Vernee C. Hancock

VCH/nac
Enclosures (as stated)

CERTIFICATE OF SERVICE

I certify that on this date a copy of the foregoing was served on each party or counsel of record by U.S. Mail, emailing, facsimile, or hand delivery in the manner prescribed by the applicable Rule of Civil Procedure.

This 17th day of July, 2014

Law Office of Vernee Hancock

BY: 

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January 13, 2014 hearing, Peery's attorney, John Cantrell, Esquire, appeared on her behalf that day.¹ At the hearing, it was determined that the base judgment amount owed by Peery (\$27,034.02) had been identified and was being held in trust for Elaine Peery at the law firm of Thurmond, Kirchner, Timbes & Yelverton, PA. The Court ordered that these Supplemental Proceedings be continued and that those funds held in trust remain in trust subject to this Court's jurisdiction until such further notice and Order from this Court.

The purpose of supplemental proceedings is to determine whether the judgment debtor has non-exempt property which may be applied towards payment of the judgment. See S.C. Code Ann. § 15-39-310. In addition, a judgment creditor may recover costs and attorneys' fees where such costs and fees were awarded in the underlying action. See Renaissance Enterprises, Inc. v. Ocean Resorts, Inc., 326 S.C. 460, 483 S.E.2d 796 (Ct. App. 1997), rev'd on other grounds, 334 S.C. 324, 513 S.E.2d 617 (1999) (holding that a party who was entitled to recover attorneys' fees in an underlying action is also entitled to recover attorneys' fees incurred in a supplemental proceeding). Post-judgment interest is set forth in accordance with South Carolina Code Section 34-31-20.

Here, Windswept is entitled to recover the underlying judgment amount owed by Peery along with all reasonable attorneys' fees, costs, and interest. Paragraph 5.07 of the Bylaws of Windswept Villas III Horizontal Property Regime addresses "Collection" and provides that "[i]f any overdue assessment is collected by an attorney or by action at law, the co-owner owing the same shall be required to pay all reasonable costs of

¹ An additional attorney, Vernee Hancock, Esquire, appeared on behalf of Peery on March 20, 2014.

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SC Court of Appeals

collection, including attorney's fees." Reasonable attorneys' fees and collection costs were awarded in the underlying action as evidenced by that Judgment on file with the Court. Accordingly, Windswept is entitled to such fees and costs in these Supplemental Proceedings.

In this case, certain amounts belonging to Peery were identified as being held in trust at the law firm of Thurmond, Kirchner, Timbes & Yelverton, PA. Additional supplemental proceedings are warranted to determine whether Peery has assets to pay additional fees, costs, and interest owed by her.

Accordingly, I find that Windswept is entitled to the base judgment amount, \$27,034.02, which is being held in trust at the law firm of Thurmond, Kirchner, Timbes & Yelverton, PA and order that such funds be paid to the Petitioner immediately or as soon as practicable. I further find that Windswept is entitled to all attorneys' fees, costs, and interest owed by Peery in this matter. I have reviewed *in camera* the attorneys' fees claimed by Counsel for Petitioner in this matter and find that such fees are reasonable under the circumstances. As of June 20, 2014, those amounts are: (1) \$15,195.62 in costs and attorneys' fees; and (2) \$ 4,616.01 in post-judgment interest.

NOW, THEREFORE, IT IS ORDERED that

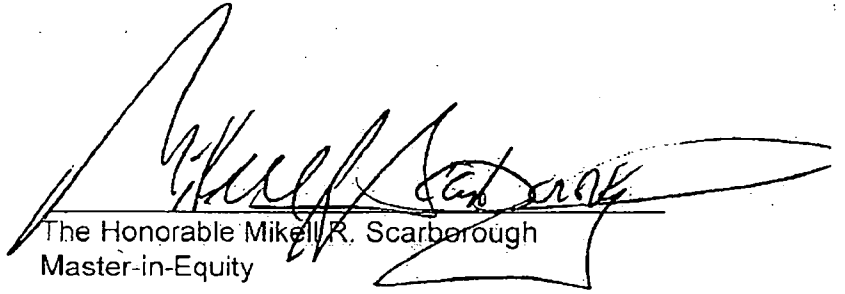
1. In accordance with these Supplemental Proceedings, the amounts held in trust (\$27,034.02) at the law firm of Thurmond, Kirchner, Timbes & Yelverton, PA shall be immediately disbursed to Windswept.
2. These Supplemental Proceedings will be continued until such other amounts owed and outstanding are paid to Petitioner in full, along with additional fees and costs and interest which may be ordered until such payment is made.

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SC Court of Appeals

IT IS SO ORDERED!



The Honorable Mikell R. Scarborough
Master-in-Equity

This 26th day of June, 2014
Charleston, South Carolina

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SC Court of Appeals

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)
 WINDSWEPT VILLAS III HORIZONTAL)
 PROPERTY REGIME)
 Petitioner/ Judgment Creditor,)
 vs.)
 ELAINE DEVLIN PEERY A/K/A)
 ELAINE D. PEERY,)
 Respondent/ Judgment Debtor.)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT
 CASE NO.: 09-CP-10-5799

FILED
 2014 JUN 30 PM 3:14
 JULIE HANFORD
 CLERK OF COURT
 BY 2

**ORDER ON JUDGMENT
 CREDITOR'S MOTION FOR A RULE
 TO SHOW CAUSE AND ORDER OF
 CONTEMPT**

This matter came before me on June 20, 2014. Present were counsel for the Petitioner, Katie Fowler Monoc, Esquire, and counsel for the Respondent, John R. Cantrell, Esquire and Vernee C. Hancock, Esquire. Also present was Lydia P. Davidson, Esquire, who represented Petitioner in the underlying matter.

The Petitioner/Judgment Creditor (hereinafter "Windswept") initiated these Supplemental Proceedings by a Motion to the Court on October 22, 2013 wherein Windswept sought to recover on its judgment against the Respondent/Judgment Debtor (hereinafter "Peery") in the amount of \$27,034.02 plus reasonable attorneys' fees, costs of collection, and interest at the legal rate from March 27, 2012, the date of judgment, until such time that all amounts owed are paid in full. An Order of Reference was executed by The Honorable R. Markley Dennis, Jr. on October 28, 2013 and filed on October 31, 2013. The Order of Reference required Peery to personally appear at the January 13, 2014 hearing on Supplemental Proceedings as well as to provide documents set forth in the Order. Although service had not been effected as of the

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January 13, 2014 hearing, Peery's attorney, John Cantrell, Esquire, appeared on her behalf that day.¹ At the hearing, it was determined that the base judgment amount owed by Peery (\$27,034.02) had been identified and was being held in trust for Elaine Peery at the law firm of Thurmond, Kirchner, Timbes & Yelverton, PA. The Court ordered that these Supplemental Proceedings be continued and that those funds held in trust remain in trust subject to this Court's jurisdiction until such further notice and Order from this Court.


Counsel for Windswept then attempted to obtain the discovery ordered in the Court's October 31, 2013 Order to no avail. For this reason, a second hearing on Supplemental Proceedings was held April 21, 2014. Peery was properly noticed yet failed to appear. Because Peery failed to comply with the ordered discovery and failed to appear at Supplemental Proceedings, Windswept filed a Motion for Rule to Show Cause and for an Order of Contempt. Although Counsel for Peery was properly served with Windswept's Motion, Peery was not personally served.

Notwithstanding, this Court has the inherent power to punish for contempt. Such power "is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders and writs of the courts, and consequently to the due administration of justice." Ex parte Cannon, 385 S.C. 643, 660-61, 685 S.E.2d 814, 824 (Ct. App. 2009).

Contempt results from the willful disobedience of a court order, and before a court may find a person in contempt, the record must clearly and specifically reflect the contemptuous conduct. A willful act is one ... done voluntarily and intentionally with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires

¹ An additional attorney, Vernee Hancock, Esquire, appeared on behalf of Peery on March 20, 2014.


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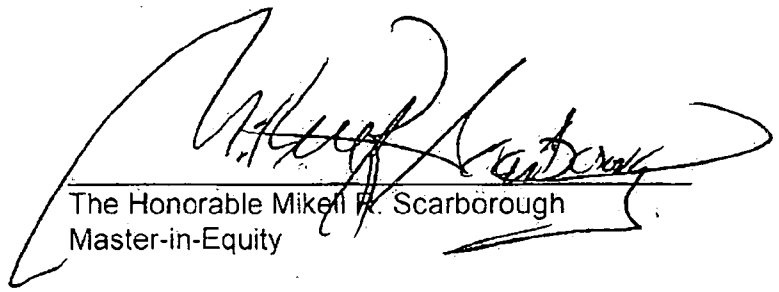
to be done; that is to say, with bad purpose either to disobey or disregard the law.

Id. (internal citations omitted). The record demonstrates that Peery failed to comply with the Court-ordered discovery and failed to personally appear at Supplemental Proceedings to answer questions under oath as ordered by the Court. Nor did she or her counsel cooperate with Windswept's counsel to submit to a deposition. Peery and her counsel specifically failed to do what the law required to be done – namely, to participate in discovery and Supplemental Proceedings. I find that Peery has been on notice of these proceedings and the applicable discovery requests set forth in the Court's October 31, 2013 Order since late 2013 yet has failed to comply with the same and has failed to appear at a single hearing. For these reasons, I find that Peery is in contempt of Court and subject to sanctions; specifically, Peery's contempt provides an additional ground for the Judgment Creditor to recover reasonable attorneys' fees and costs (previously awarded in this Court's Order on Supplemental Proceedings on other grounds).

An additional hearing on the matter shall be set for August 29, 2014 at 10 a.m. The Judgment Creditor is to personally serve the Judgment Debtor, Elaine Peery, with notice of the August 29, 2014 hearing wherein Peery must show cause as to why she failed to appear at these Supplemental Proceedings and respond to discovery as required by the Court's October 31, 2013 Order. Should Elaine Peery fail to appear at the August 29, 2014 10 a.m. hearing, she will be subject to arrest and imprisonment. The Court will at that time also rule on additional attorneys' fees and costs that may be owed by Peery.


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IT IS SO ORDERED!



The Honorable Michael F. Scarborough
Master-in-Equity

This ^{26th} day of June, 2014
Charleston, South Carolina

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SC Court of Appeals