

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

APPELLATE Case No. 2013-002785

Norman Robert Knight,

Petitioner,

v.

Companion Property and Casualty
Insurance Company of South Carolina;
Robertson Hollingsworth & Flynn Law Firm with;
Paul R. Ryan, as an Individual & a Partner:

Respondent(s)

APPENDIX to: Petition for a Rehearing R.221(a) & (c)

Norman Robert "Bobby" Knight, Petitioner
3940 Hottinger Avenue
North Charleston, SC 20405
(843) 735-0814

Counsel of Record:
Theodore Manos
% Robertson Hollingsworth & Flynn Law Firm
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Charleston, SC 29401
Attorney for Respondents
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SC Court of Appeals

APPENDIX – Petition for a Rehearing

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INTRODUCTION:

The Appeal Courts ORDER dated July 28, 2014 made the assumption that because Judge Addy did not change his first finding about “standing”; a challenged jurisdiction, by this Petitioner as a *pro se* party that the Petitioner’s Issues Preserved were in fact preserved for an Appeal as shown in the connected Motion for Reconsideration & Second Motion for Consideration.

The time for Noticing the Appeal was (30) days and that measure was perfected.

The Petitioner contended in his Notice of Appeal that the State Court below erred when IT continued following the opposing attorney’s allegation that the Appellant appeared as the owner of a corporation and could not represent in a court;

AND the Petitioner for Rehearing had sufficient “**proofs**” that in both the Motions for Reconsideration & Amend that he was a not a corporation. (a burden that belongs to the Courts and not to the challenger of any kind of jurisdiction)The Petitioner had raised both; (1) that the federal government recognition and the Supremacy Clause and (2) the State Tax code for SMLLCs. (*See @APPENDIX para B.1.3. & B.1.4.*)

AND the Petitioner **always operated as a Sole Proprietorship**, thereby had timely asserted as following with the examples in these excerpts from the RECORD not yet provided as the Petitioner’s Initial Brief was simultaneously filed at the Appeal Court and diverted by the Motion to Dismiss the Appeal of the Respondents:

- **A.1. EXCERPTS from RECORD**

A.1.1. Copy verbatim from the initial **Motion for Reconsideration & Amend**; @ Page 5

WHEREFORE The Plaintiff asks for a reconsideration of the dismissal with a renewed application of R.17(b) and R.23(b)(1) since Bobby Knight was the sole-proprietor and was the only single-member of Construction Group LLC; which "lacks or lacked the power to act" as an §33-44-201 Entity and, Bobby Knight acted in his own behalf in the filing of Knight v Companion et al . A right which does exist for the Plaintiff as is allowed by ALL the Court's Rules and Statutes with jurisdiction and venue in South Carolina; and by:

R.17(b); R.23(b)(1) and SC Code § 33-44-1102. Proper plaintiff.

A.1.2. Copy verbatim from the initial **Motion for Reconsideration & Amend**; @ Page 6

Inserted from RECORD EXHIBIT: IRS Sch C

on next page #4 of **APPENDIX – Petition for a Rehearing.**

Bobby Knight's Federal Taxes were always filed as SOLE PROPRIETOR.

Schedule C
(Form 1040)

Profit or Loss From Business
(Sole Proprietorship)

OMB No. 1545-0074

2012

Department of the Treasury
Internal Revenue Service (99)

▶ For information on Schedule C and its instructions, go to www.irs.gov/schedulec.
▶ Attach to Form 1040, 1040NR, or 1041; partnerships generally must file Form 1065.

Attachment
Sequence No. 09

Name of proprietor BOBBY KNIGHT	Social security number (SSN) REDACTED
A Principal business or profession, including product or service (see instructions) GENERAL CONTRACTOR	B Enter code from instructions ▶ 233200
C Business name. If no separate business name, leave blank. CONSTRUCTION GROUP LLC	D Employer ID no. (EIN) (see inst.) 57-1116850
E Business address (including suite or room no.) ▶ City, town or post office, state, and ZIP code	3940 HOTTINGER AVE NORTH CHARLESTON SC 294057018

F Accounting method: (1) Cash (2) Accrual (3) Other (specify) ▶

G Did you "materially participate" in the operation of this business during 2012? If "No," see instructions for limit on losses. Yes No

H If you started or acquired this business during 2012, check here: Yes No

I Did you make any payments in 2012 that would require you to file Form(s) 1099? (see instructions). Yes No

J If "Yes," did you or will you:

Part I Income

- 1a Gross receipts or sales, \$
- 2 Returns and allowances (-)
- 3 Subtract line 2 from line 1
- 4 Cost of goods sold (from 1)
- 5 Gross profit. Subtract line 4
- 6 Other income, including fee
- 7 Gross income. Add lines 5 and 6

Part II Expense

- 8 Advertising
- 9 Car and truck expenses (see instructions)
- 10 Commissions and fees
- 11 Contract labor (see instructions)
- 12 Depreciation
- 13 Depreciation and sect. 179 expense (not included in Part III) (see instr.)
- 14 Employee benefit program (other than on line 19)
- 15 Insurance (other than health)
- 16 Interest:
 - a Mortgage (paid to banks)
 - b Other
- 17 Legal and professional ser.
- 28 Total expenses before ex.
- 29 Tentative profit or (loss), \$
- 30 Expenses for business use
- 31 Net profit or (loss). Subtr
 - If a profit, enter on bol.
 - If a loss, you must go
- 32 If you have a loss, check t.
 - If you checked 32a, er
 - If you checked 32b, yc

SOLE PROPRIETORSHIP

SC } TITLE 12-2-25(B)(1)

TITLE 33-44-201

TITLE 33-44-1101

REDACTED

For Paperwork Reduction Act
52A

- **A.2. EXCERPTS from RECORD**

A.2.1. Copy verbatim from the Second Motion for Reconsideration & Amend: @Page 2 & 3

The Plaintiff was basically informed at the 16 OCT 2013 hearing by Judge Addy, that his State civil action was to be denied for three reasons. First, as to a Plaintiff's lack of standing; and third, a corporation cannot be represented by a *pro se*. [MasterCraft or Clean?] The "whole dispute" alleged in the State Court Complaint was not settled at USDC Miller ACT to apply a Res Judicata (was the second).

The litigation history between the parties is contrary to the case precedents plead by the Defendants in 2013 and as the previous USDC litigation between these exact same parties in 2003 shows from just over 9 years ago. The two pages from that USDC civil action are contrary to the Circuit Court's barr today and it names the Plaintiff identified in the 2003 USDC matter is the same Plaintiff, Bobby Knight, the matter before Judge Addy's Court today:

Exhibits: Items No.s 1(a); 1(b); & 2 page excerpts:

@USDC Dkt Entry No. 1

Item No. **1(a)**: Page 1 ... in paragraph No. 1. It states exactly as follows:

Bobby Knight, Plaintiff, 3940 Hottinger Avenue, North Charleston, South Carolina, 29405. Owner of a Small Business Administration certified HUBZone entity and sole-proprietor of his small business dba/ Construction Group LLC.

Item No. **1(b)**: Page 1... in paragraph No. 2. It states exactly as follows:

Companion Property and Casualty Group (an insurance company), Defendants, ...

@USDC Dkt Entry No. 19

Item No. 2. this civil action ended with a FRCP 41(a)(1) Joint Stipulation, after the Plaintiff and attorneys met, discussed and negotiated and agreed (1) to refund the Plaintiff his companies money; and, (2) to correct and release the Plaintiff's company, Construction Group LLC, from their computer network audit lock held in the national insurance data banks located in Boca Raton, Florida.

These USDC docketed exhibits show clearly that the Plaintiff has successfully previously appeared *pro se* in the USDC District of South Carolina against the very same Defendant (w.different attorneys) and without objection for being *pro se* up to a mutual compromise about our business's differences.

A.2.2. Copy verbatim from the Second Motion for Reconsideration & Amend: @ Page ,3 & 4

The Court did not hold a 2nd hearing for the **FIRST Motion for Reconsideration & Amend** as on the face it must have appeared that were no possible direction changes in the 18 October 2013 FILED three part dismissal-explanation that could have been had in favor of the Plaintiff. That which was part of the *pro se* plan at hearing presentation follows below:

The Plaintiff, since there was not a 2nd hearing, respectfully asks for the Court to review and consider the Plaintiff's and Defendant's two USDC documents from 2003-2004 that clearly alter the conditions "of standing" and "of appearance" by Construction Group LLC with Bobby Knight as the sole-proprietor pro se. (a SMLLC). It appears that these parties or Court had presented what did not exist which is "no valid case citations that a Derivative Action brought by a sole-proprietor [SMLLC] against a third party" could not be procedurally successful for claims when the LLC shows it had been made defunct by the alleged actions of any defendants. In the alternative, this Plaintiff *pro se* has a shown as a precedent between these very same parties for a reconsideration and amendment about this matter. Bobby Knight is the "successor in interest".

The Form 4 ORDER signed by Judge Addy on November 5, 2013 and FILED November 15, 2013 and received via the internet by the Plaintiff on November 22, 2013 by the Plaintiff having received by mail the Clerk's NOTICE of ENTRY on November 21, 2013, is attached hereto.

NEW (HISTORICAL) FACTS & SUMMARY:

There are two (2) additional documents the Plaintiff presents, for the Court to review and consider, attached hereto. They are:

... page 1 of 13 of USDC Dkt Entry No. 1; and, page 1 of 1 of USDC Dkt Entry No. 19 in a **USDC Civil Action No. 2: 03-3165 18AJ FILED OCT 6 2003 & amicably jointly FRCP 40 settled FILED JAN 22, 2004.**

CONCLUSION :

A **Case Law Doctrine Argument**, especially when between these two identical parties in Charleston County Court of Common Pleas No. 2013-CP-10_04560 Knight v Companion Property et al was contrary when compared to the United States District Court -- Charleston South Carolina No. 2 03 3165 18AJ Knight v Companion Property et al must be given an equal

weight consideration and a strict interpretation of the precedent set in the 2003 complaint. I[t] was filed *pro se* for the same Plaintiff's corporation's losses and injury; and, with a FRCP 40 compromise (settlement) that was achieved to the satisfaction of all parties.

That which was an applicable insurance dispute in January 2004 is a rationale resolve for October 2013, as well for a SMLLC like Construction Group, LLC. {see Dkt Entry(s) 1 & 19}...

THEREFORE: It is a just, fair and for a good cause to reinstate Knight vs. Companion Property et al. 2013-CP-10-04560.

Respectfully submitted this 23 day of November 2013.

• **B.1. LAW ARGUMENTS – Issues Preserved: with supporting Case Law**

B.1.1. *"Issue preservation rules are designed to give the trial court a fair opportunity to rule on the issues, and thus provide us with a platform for meaningful appellate review."* Queen's Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp., 368 S.C. 342, 373, 628 S.E.2d 902, 919 (Ct. App. 2006). *At a minimum, issue preservation requires that an issue be raised to and ruled upon by the trial judge.* Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998). *It is "axiomatic that an issue cannot be raised for the first time on appeal."* Id. *Imposing such a requirement on the appellant "is meant to enable the lower court to rule properly after it has considered all relevant facts, law, and arguments."* I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000).

B.1.2. *Constitutional arguments are no exception to the preservation rules, and if not raised to the trial court, the issues are deemed waived on appeal.* Glover v. County of Charleston, 361 S.C. 634, 606 S.E.2d 773 (2004) *overruled on other grounds by* Byrd v. City of Hartsville, 365 S.C. 650, 620 S.E.2d 76 (2005); *see also* Grant v. S.C. Coastal Council, 319 S.C. 348, 461 S.E.2d 388 (1995) *(holding that a due process claim raised for the first time on appeal was not preserved)*; Merriman v. Minter, 298 S.C. 110, 378 S.E.2d 441 (1989) *(refusing to consider an equal protection challenge to a statute on appeal where it was not raised to the trial court)*.

B.1.3. *Of course, a party is not required to use the exact name of a legal doctrine in order to preserve the issue.* *See* State v. Russell, 345 S.C. 128, 546 S.E.2d 202 (Ct. App. 2001) *(finding issue was preserved even though defendant did not use exact words "corpus delicti" in his request for a directed verdict)*. *Nonetheless, the issue must be sufficiently clear to bring into focus the precise nature of the alleged error so that it can be reasonably understood by the judge.* Wilder Corp., 330 S.C. at 76, 497 S.E.2d at 733; *see also* S.C. Dep't of Transp. v. First

Carolina Corp. of S.C., 372 S.C. 295, 641 S.E.2d 903 (2007) (finding that although SCDOT did not phrase objection in the exact terms used in the issues on appeal, the objection was sufficiently specific to allow the trial court to rule on the issue).

B.1.4. Our appellate rules also offer guidance. "Ordinarily, no point will be considered on appeal which is not set forth in the statement of the issues on appeal." Rule 208(b)(1)(B), SCACR. When an issue is not specifically set out in the statements of issues, the appellate court may nevertheless consider the issue if it is reasonably clear from an appellant's arguments. See Eubank v. Eubank, 347 S.C. 367, 555 S.E.2d 413 (Ct. App. 2001) (finding the statement of issue, when read in conjunction with the argument, sufficiently raised the issue to the court). However, "[e]very ground of appeal ought to be so distinctly stated that the reviewing court may at once see the point which it is called upon to decide without having to 'grope in the dark' to ascertain the precise point at issue." Jones v. Lott, 387 S.C. 339, 346, 692 S.E.2d 900, 903 (2010) (internal citation omitted). Similarly, a petition for rehearing must "state with particularity the points supposed to have been overlooked or misapprehended by the court." Rule 221(a), SCACR. "The purpose of a petition for rehearing is not to present points which lawyers for the losing parties have overlooked or misapprehended, nor is it the purpose of the petition for rehearing to have the case tried in the appellate court a second time." Kennedy v. S.C. Retirement Sys., 349 S.C. 531, 532, 564 S.E.2d 322, 322 (2001) (quoting Jean H. Toal, Appellate Practice in South Carolina 309 (1999)).

B.1.5. Moreover, the Supreme Court has stated "[w]hen the highest state court is silent on a federal question before us, we assume that the issue was not properly presented, and the aggrieved party bears the burden of defeating this assumption by demonstrating that the state court had a fair opportunity to address the federal question that is sought to be presented here." Adams v. Robertson, 520 U.S. 83, 86-87 (1997) (internal citations omitted).[8] The Supreme Court has explained its reasoning for such policies:

[I]n a federal system it is important that state courts be given the first opportunity to consider the applicability of state statutes in light of constitutional challenge, since the statutes may be construed in a way which saves their constitutionality. Or the issue may be blocked by an adequate state ground. Even though States are not free to avoid constitutional issues on inadequate state grounds, they should be given the first opportunity to consider them.

Cardindale, 394 U.S. at 439.

C.1. The APPENDIX and ARGUMENTS

to consider about the Petition for a Rehearing CONCLUSION:

The trial court, Judge Addy, was clearly given **FAIR OPPORTUNITIES** to DECLARE that the Petitioner a *pro se* Sole Proprietor and a proper party to bring this civil action for a complete Recission of a contract as plead in the Complaint.

The Petitioner had not overlooked these issues and brought for Notice of Appeal and on the RETURN to the Motion to Dismiss the Appeal; clearly that error belongs only to the court below and the ill-intent of those court below prevailing attorneys. **This Petitioner must not be prejudiced for the delay and error of others.**

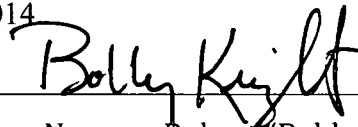
The Doctrine for Issue Preservation, meets the minimum requirements as the Petitioner had timely raised them and these EXCERPTS from the RECORD (Dkt below). These outweighs the Court below err to not have corrected [I]ts own ruling as to “standing” *et seq* about this *pro se* Sole Proprietorship Petitioner; correctly being recongnized by both federal and state laws, rules and regulations as being a Sole Proprietor SMLLC business and further shows proofs of not being a corporation requiring attorney representations.

This is the primary Issue Preserved triggering the normal Appeal process.

THE PETITION FOR REHEARING MUST BE GRANTED

Respectfully submitted this 8th day of August 2014

BY: _____



Norman Robert “Bobby” Knight, Petitioner
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Counsel of Record:
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Paul R. Ryan, as an Individual & a Partner:

Respondent(s)

PROOF OF SERVICE

Norman Robert "Bobby" Knight, *pro se*, I certify that I have served Petitioner's **APPENDIX -
-Petition for a Rehearing** to Theodore Manos, Attorney for the Respondents, by depositing a copy of it in the United States Mail, postage prepaid, on June 16th, 2014, addressed to their attorney of record: Theodore Manos, % Robertson Hollingsworth & Flynn Law Firm, 177 Meeting Street, Ste 300, Charleston, SC 29401, (843) 723-6470.

Respectfully submitted this 8th day of August 2014.



Norman Robert "Bobby" Knight, Petitioner
3940 Howinger Avenue
North Charleston, SC 20405
(843) 735-0814

August 8, 2014

Honorable V. Claire Allen, Deputy Clerk
South Carolina Court of Appeals
%Jenny Abbott Kitchings, Clerk
Post Office Box 11629
Columbia, South Carolina, 29211

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RE: APPENDIX -- Petitioner's Petition for a Rehearing

Subject: APPELLATE Case No. 2013-002785 Knigh v. Companion Property, et al.

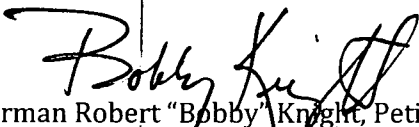
Dear Ms. Allen, Dep. Clerk of South Carolina Appeals Court,

Please find enclosed one (1) original w signature and six (6) copies. It needs to accompany the Petition for a Rehearing and was inadvertently delayed.

I have included a S.A.S.E. and for one (1) copy for a return to me after being stamped as FILED by your office.

Your last stamp was RECEIVED on my INTIAL BRIEF OF THE PETITIONER & RETURN TO MOTION TO DISMISS THE APPEAL; Please mark this Petition as FILED and return in the SASE.

Thank you for your assistance in this matter.



Norman Robert "Bobby" Knight, Petitioner
3940 Hottinger Avenue
North Charleston, SC 20405
(843) 735-0814

Enclosures:

(1 original) + (6 copies)

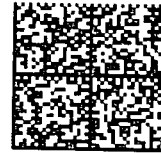
Honorable V Claire Allen, Deputy Clerk of Court
SC Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211-1629

(1 copy)

For returning to the Petitioner after filing in the SASE.

Cc/ Theodore Manos for Respondents.
% Robertson Hollingsworth & Flynn Law Firm
177 Meeting Street, Ste 300
Charleston, SC 29401

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