

STATE OF SOUTH CAROLINA
In The Court of Appeals

173245

APPEAL FROM YORK COUNTY
Court of Common Pleas

RECEIVED

Hon. S. Jackson Kimball, III
Master in Equity Judge

AUG 18 2014

SC Court of Appeals

Appellate Case No. 2014-000730

EARL DUKES, Respondent,

vs.

KENNETH W. FARRELL, MARY C. FARRELL, and
MARTIN BOGDONOVITCH, Defendants,

MARTIN BOGDONOVITCH, Third-Party Plaintiff,

vs.

MARSHALL A. REYNOLDS, CHRISTINA A. REYNOLDS,
FISHER-SHERER, INC., ROBERT P. MEDFORD,
LUTZEL, BROADWAY & ASSOCIATES, PC, and
TINA PATRICK-BROADWAY, Third-Party Defendants.

MOTION TO CORRECT CAPTION
and FOR EXTENSION OF TIME

Pursuant to Rules 240 and 263(b), S.C.A.C.R., the Respondents, by their counsel herein, move this Court for an order correcting the caption of this appeal, and granting them an extension of time in which to file and serve their Initial Brief and Designation of Matter to Be Included in the Record on Appeal, on the grounds stated below:

1. By letter of the Clerk of Court Order of this Court dated May 19, 1964 (a copy which is attached), and the Appellant's pleadings to date, the above caption was designated as that which the pleading in this appeal should bear.

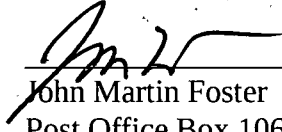
2. On knowledge and information, the caption above is incorrect in several aspects, to -wit:

1. The Judge of the Court below is characterized as “Master in Equity Judge”; his true status is that indicated on the appealed Order for Partial Summary Judgment filed April 3, 2014, *i.e.*, “Special Circuit Court Judge”;
 2. The caption as stated by the Clerk’s letter includes parties dismissed from the case now pending. Orders dismissing MARSHALL REYNOLDS, CHRISTINA REYNOLDS, and MARTIN BOGDONOVITCH, and ROBERT MEDFORD and FISHER-SHERER, INC., both of which pre-date the appealed Order of April 3, 2014, are attached. To the knowledge of counsel for Respondents FARRELL, LUTZEL, BROADWAY & ASSOCIATES, PC and TINA PATRICK BROADWAY were dismissed prior to the said Order appealed, as shown by the summarized record of the Clerk of Court for York County, a copy of which is also attached;
 3. The recently re-done caption of the Appellant’s Initial Brief and his Designation of Matter to Be Included in the Record on Appeal state that “KENNITH W. FARRELL” is the sole Respondent. The Appellant’s earlier Notice of Appeal and Initial Brief correctly named both Mr. FARRELL and his wife and co-Defendant MARY C. FARRELL as Respondents.
3. Counsel for Respondents-Movants respectfully suggests that the points raised above as to the caption must be addressed and corrected before this matter goes forward.
 4. Owing to the procedural questions above, and to press of business and other Appellate deadlines, counsel for Respondents cannot timely respond within thirty (30) days of service of the Appellant’s Initial Brief, which deadline (by counsel’s calculation) would be August 15, 2014.
 5. The Respondents pray for an extension of time to serve and file their Initial Brief and Designation of Matter until a minimum of thirty (30) days after the resolution of the matters raised above.
 6. Counsel for the Respondents-Movants is informed by counsel for Appellant that he does not oppose this Motion for Extension of time.

The basis of this Motion is the within-cited Rules, the records of this appeal, and any attached affidavit or stipulation of the undersigned, which items are hereby incorporated in this Motion.

WHEREFORE, the Respondents herein move this Court to correct the caption of this appeal and for an extension of time to serve and file their Initial Brief and Designation of Matter until a minimum of thirty (30) days after the resolution of the matters raised above, pursuant to Rule 240 and 263(b), S.C.A.C.R.

August 14, 2014



John Martin Foster
Post Office Box 106
Rock Hill, South Carolina 29731
803 324-8100
Attorney for Respondents

Other Counsel of Record:

J. Cameron Halford
Halford, Niemiec & Freeman, LLP
Attorneys for Appellant
238 Rockmont Drive
Fort Mill, SC 29708
803 547-6618



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

May 19, 2014

Mr. J. Cameron Halford, Esquire
238 Rockmont Drive
238 Rockmont Drive
Fort Mill SC 29708

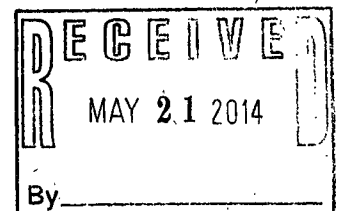
Re: Earl Dukes v. Kenneth Farrell
Appellate Case No. 2014-000730

Dear Counsel:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/HTMLFiles/2007-08-13-02.htm. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.



This is to advise that the title in the above matter has been changed to read as follows:

Earl Dukes, Appellant,

v.

Kennith W. Farrell, Mary C. Farrell and Martin Bogdonovitch, Defendants,

Of whom Kennith W. Farrell and Mary C. Farrell are the Respondents.

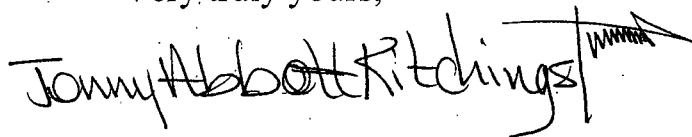
Martin Bogdonovitch, Third-Party Plaintiff,

v.

Marshall A. Reynolds, Christina A. Reynolds, Fisher-Sherer, Inc., Robert P. Medford, Lutzell, Broadway & Associates, PC, and Tina Patrick-Broadway, Third-Party Defendants.

All future records in this matter should be changed to reflect this title. If you have any questions, please do not hesitate to contact this office.

Very truly yours,

A handwritten signature in black ink that reads "Jonny Abbott Kitchings". The signature is written in a cursive style with a long, sweeping horizontal line at the end.

CLERK

cc: John Martin Foster, Esquire

RECEIVED

AUG 18 2014

SC Court of Appeals

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF YORK
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 11 CP-46-3182

Earl C. Dukes

Kennith W. Farrell, Mary C. Farrell, and
 Martin Bogdanovich

Marshall A. Reynolds and Christina A.
 Reynolds, Fisher-Sherer, Inc., Robert R.
 Medford, Lutzell, Broadway & Associates, PC
 and Tina Patrick-Broadway

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Bruce M. Poore	Attorney for : <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant or Marshall and Christina <input type="checkbox"/> Self-Represented Litigant Reynolds
------------------------------	---

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other Marshall and Christina Reynolds and Martin Bogdanovich have reached
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; an agreement. Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT TRIBUNAL OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk :

FILED-RECEIVED
 2014 APR 0 PM 12:18
 DAVID HAMILTON
 CLERK OF COURT
 YORK COUNTY, SC

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

RECEIVED
 APR 11 2014
 BY

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS

Case No. 2011-CP-46-3182

Earl C. Dukes,)
)
Plaintiff,)

vs.)

Kennith W. Farrell, Mary C. Farrell, and)
Martin Bogdanovich,)
)
Defendants,)

vs.)

Marshall A. Reynolds and Christina A.)
Reynolds; Fisher-Sherer, Inc.; Robert R.)
Medford; Lutzel, Broadway & Associates,)
PC and Tina Patrick-Broadway,)
Third-Party Defendants.)

Stipulation of Dismissal

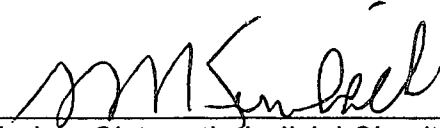
(Between Marshall and Christina)
Reynolds and Martin Bogdanovich)

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2014 APR 10 PM 12:18
DAVID HAMILTON
C.O.C.P. S.S.
YORK COUNTY, SC

It appears to the Court that a settlement has been reached to the satisfaction of all of the parties involved, as stipulated by the undersigned counsel for Plaintiff and Defendant; now, therefore, it is hereby

ORDERED that this case be dismissed with prejudice.

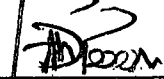
AND IT IS SO ORDERED.



Judge, Sixteenth Judicial Circuit


8/31, 2014

I SO MOVE:



Bruce M. Poore
Attorney for Marshall and
Christine Reynolds

I CONSENT:



Adam L. Horner
Attorney for Martin Bogdanovich

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF YORK
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2011CP4603182

Earl C Dukes	Kenneth W Farrell Martin Bogdonovich Christina A Reynolds Robert R Medford Tina Patrick Broadway	Mary C Farrell Marshall A Reynolds Fisher Sherer Inc Lutzel Broadway & Associates P C
--------------	--	---

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Walter L Heinsohn	Attorney for: <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant
--	--

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered: See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION
 Stipulation of Dismissal

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

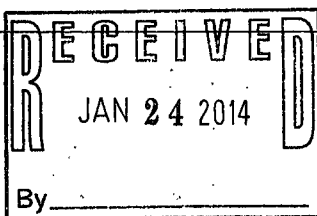
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

David Hamilton
 Clerk of Court



2099
 Judge Code

2/20/2014
 Date

For Clerk of Court Office Use Only

This judgment was entered on 02/20/2014, and a copy mailed first class or placed in the appropriate attorney's box on 02/20/2014, to attorneys of record or to parties (when appearing pro se) as follows:

J. Cameron Halford 238 Rockmont Drive 238 Rockmont Drive Fort Mill, SC 29708

John Martin Foster PO Box 106 Rock Hill, SC 29731-6106
Adam Louis Horner 201 S College St Suite 2020 Charlotte, NC 28244-0003

Walter L. Heinsohn PO Box 4287 Rock Hill, SC 29732
Richard Joseph Lutz 542 Williamson Rd. Mooresville, NC 28117

Bruce M. Poore PO Box 11808 Rock Hill, SC 29731-1808
Adam Louis Horner 201 S College St Suite 2020 Charlotte, NC 28244-0003

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

David Hamilton

Court Reporter

David Hamilton - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

Earl C. Dukes,)
)
Plaintiff,)
vs.)

CASE NO: 2011-CP-46-3182

STIPULATION OF DISMISSAL

Kenneth W. Farrell, Marcy C. Farrell and)
Martin Bogdanovich,)
Defendants.)

BETWEEN
MARTIN BOGDANOVICH
AND
ROBERT R. MEDFORD and FISHER-SHERER, INC.

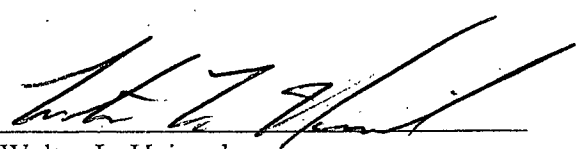
Martin Bogdanovich,)
)
Third-Party Plaintiff,)
vs.)

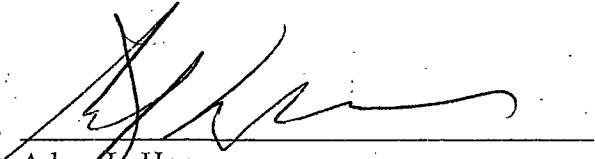
Marshall A. Reynolds, Christina A.)
Reynolds; Fisher-Sherer, Inc.; Robert R.)
Medford, Lutzell, Broadway & Associates,)
and Tina Patrick-Broadway,)
Third-Party-Defendants.)

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2014 FEB 20 PM 3:21
DAVID J. ALTON
CLERK
YORK COUNTY, SC

Pursuant to Rule 41 (a)(1)(B) of the South Carolina Rules of Civil Procedure, the undersigned counsel for Third Party Plaintiff, Martin Bogdanovich, and counsel for Third Party Defendants, Fisher-Sherer, Inc. and Robert R. Medford, do hereby stipulate to the dismissal of all causes of action as between them With Prejudice.

AND IT IS SO STIPULATED this 19th day of February, 2014.


Walter L. Heinsohn
ATTORNEY FOR FISHER-SHERER, INC.
and ROBERT R. MEDFORD
P.O. Box 4287
Rock Hill, SC 29732


Adam L. Horner
ATTORNEY FOR MARTIN BOGDANOVICH
Hamilton, Stephens, Steele & Martin, PLLC
201 South College Street, Ste 2020
Charlotte, NC 28244-2020

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JAN 24 2014
By _____



**York County
Sixteenth Judicial Circuit
Public Index**



York County Home Page South Carolina Judicial Department Home Page SC.GOV Home Page

Earl C Dukes VS Kenneth W Farrell , defendant, et al					
Case Number:	2011CP4603182	Court Agency:	York County Common Pleas	Filed Date:	08/19/2011
Case Type:	Common Pleas	Case Sub Type:	Partition 440	File Type:	Jury
Status:	Dismissed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court		
Disposition:	Dismissed per Rule 41(a)	Disposition Date:	04/10/2014	Disposition Judge:	Kimball, S. Jackson III
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

Case Parties Judgments Tax Map Information Associated Cases Actions Financials								
Click the <input checked="" type="checkbox"/> icon to show associated parties.								
Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated	
Bergeron, Jean	109 Barton Bend Ln. Columbia SC 29206				Mediator		03/28/2013	
<input checked="" type="checkbox"/> Bogdonovich, Martin(Inactive)					Defendant		04/02/2014	
<input checked="" type="checkbox"/> Dukes, Earl C					Plaintiff		04/10/2014	
<input checked="" type="checkbox"/> Farrell, Kenneth W					Defendant		11/07/2013	
<input checked="" type="checkbox"/> Farrell, Mary C					Defendant		08/19/2011	
<input checked="" type="checkbox"/> Fisher Sherer Inc(Inactive)					Defendant		04/01/2014	
<input checked="" type="checkbox"/> Foster, John Martin	PO Box 106 Rock Hill SC 297316106				Defendant Attorney		03/22/2013	
<input checked="" type="checkbox"/> Halford, J. Cameron	238 Rockmont Drive 238 Rockmont Drive Fort Mill SC 29708				Plaintiff Attorney		01/09/2014	
<input checked="" type="checkbox"/> Heinaohn, Walter L.(Inactive)	PO Box 4287 Rock Hill SC 29732				Defendant Attorney		04/01/2014	
<input checked="" type="checkbox"/> Horner, Adam Louis(Inactive)	201 S College St Suite 2020 Charlotte NC 282440003				Defendant Attorney		04/02/2014	
<input checked="" type="checkbox"/> Horner, Adam Louis(Inactive)	201 S College St Suite 2020 Charlotte NC 282440003				Defendant Attorney		04/02/2014	
<input checked="" type="checkbox"/> Lutzal, Richard Joseph(Inactive)	542 Williamson Rd. Mooresville NC 28117				Defendant Attorney		04/02/2014	
<input checked="" type="checkbox"/> Lutzal Broadway & Associates P C(Inactive)					Defendant		04/02/2014	
McDonnell, Edward Gerard	PO Box 12245 Columbia SC 292112245				Alternate Mediator		03/28/2013	
<input checked="" type="checkbox"/> Medford, Robert R(Inactive)					Defendant		04/01/2014	
<input checked="" type="checkbox"/> Patrick Broadway, Tina(Inactive)					Defendant		04/02/2014	
<input checked="" type="checkbox"/> Poore, Bruce M.(Inactive)	PO Box 11808 Rock Hill SC 297311808				Defendant Attorney		04/02/2014	
<input checked="" type="checkbox"/> Reynolds, Christina A(Inactive)					Defendant		04/02/2014	
<input checked="" type="checkbox"/> Reynolds, Marshall A(Inactive)					Defendant		04/02/2014	

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STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Hon. S. Jackson Kimball, III
Master in Equity Judge

Appellate Case No. 2014-000730

EARL DUKES, Respondent,

vs.

KENNITH W. FARRELL, MARY C. FARRELL, and
MARTIN BOGDONOVITCH, Defendants,

MARTIN BOGDONOVITCH, Third-Party Plaintiff,

vs.

MARSHALL A. REYNOLDS, CHRISTINA A. REYNOLDS,
FISHER-SHERER, INC., ROBERT P. MEDFORD,
LUTZEL, BROADWAY & ASSOCIATES, PC, and
TINA PATRICK-BROADWAY, Third-Party Defendants.

PROOF OF SERVICE

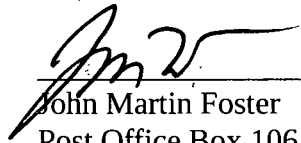
I certify that I have served the Motion to Correct Caption and for Extension of Time dated August 14, 2014, on the following counsel or persons of record:

J. Cameron Halford
Halford, Niemiec & Freeman, LLP
Attorneys for Appellant
238 Rockmont Drive
Fort Mill, SC 29708

by depositing the same with the United States mail, with sufficient first class postage attached, properly addressed to the clerk of the Court, and with a copy also directed to the respective last known

address(es) of those attorney(s) and/or persons set out above, pursuant to Rule 262, S.C.A.C.R.

August 14, 2014



John Martin Foster
Post Office Box 106
Rock Hill, S. C. 29731-6106
803 324-8100
Attorney for Appellant

JOHN MARTIN FOSTER

Attorney at law

The Guardian Building	PO Box 106	803 324 8100
223 East Main Street Suite 520	Rock Hill SC	803 324 8109 Fax
Rock Hill South Carolina 29730	29731-6106	jmfooster@comporium.net

August 14, 2014

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

Re: Earl Dukes, Appellant,
v. Kenneth Farrell and Mary C. Farrell, Respondents.

Appellate Case No. 2014-000730

Dear Ms. Kitchings:

In accordance with Rules 240 and 263(b), S.C.A.C.R., enclosed herewith please find the original and seven (7) copies of the Respondents' Motion to Correct Caption and for Extension of Time, together with Certificate of Service for the same in the above referenced case. I also enclose our check for the Motion fee of \$25.00.

By copy of this letter, I am serving the attorney for the Appellant with a copy of the said Motion, as evidenced by the Certificate of Service.

Please return the extra conformed copy to my office in the enclosed self-addressed, stamped envelope. As always, thank you, and your staff, for your assistance in these matters.

Sincerely yours,



John Martin Foster

jmf/
enclosures

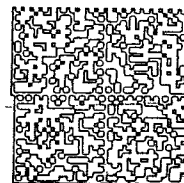
cc: Client File

J. Cameron Halford
Halford, Niemiec & Freeman, LLP
Attorneys for Appellant
238 Rockmont Drive
Fort Mill, SC 29708
803 547-6618

RECEIVED

AUG 18 2014

SC Court of Appeals



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\$5.80
08/14/14
Mailed From 29730
US POSTAGE

John Martin Foster Attorney

223 East Main St Suite 520
Post Office Box 106
Rock Hill SC 29731-6106

TO: THE HONORABLE JENNY ABBOTT KITCHINGS
CLERK OF THE COURT OF APPEALS
POST OFFICE BOX 11629
COLUMBIA, S.C. 29211

