

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

RECEIVED

OCT 17 2014

The Honorable Alison Renee Lee, Circuit Court Judge

SC Court of Appeals

Appellate Case No. 2014-002080
Civil Action No. 2013-CP-23-05159

Cheyenne Burrell and Richard Burrell, Respondents,

v.

Capital Growth Corporation d/b/a CGC Management Company
and Fairhill, Ltd. d/b/a Fairhill Ltd., L.P., Appellants.

**APPELLANTS' RETURN TO
RESPONDENTS' MOTION TO DISMISS
INTERLOCUTORY APPEAL**

Appellants, Capital Growth Corporation d/b/a CGC Management Company and Fairhill, Ltd. d/b/a Fairhill Ltd., L.P. (collectively, "CGC"), through their undersigned counsel and pursuant to Rule 240(e), SCACR, submit this Return to Respondents' Motion to Dismiss Interlocutory Appeal (the "Motion").

INTRODUCTION

In this negligence action, Respondent Cheyenne Burrell alleges that, on November 30, 2010, she sustained injuries when she slipped and fell on a staircase at her apartment complex in Greenville, South Carolina. She and her husband filed this lawsuit

on September 24, 2013, claiming that the staircase on which she fell was in a known state of disrepair as a result of Appellants' alleged acts or omissions.

In or about October 2013, Respondents' counsel attempted to serve Appellants via certified mail to their registered agent, Barbara Evans, but the envelope was returned unclaimed. Thereafter, Plaintiffs' counsel retained a process server to attempt service. In or about early November 2013, the process server left the documents with Kathy Keziah, a leasing agent for the Defendants. As set forth in affidavits submitted by Appellants and as recognized by Judge Lee,¹ Ms. Keziah was not an officer, managing or general agent, or agent authorized by appointment or law to receive service for the Defendants. Only the property manager, Carol Dixon, had the authority to accept service of process.

On December 30, 2013, after several unsuccessful attempts by the undersigned to make contact with Respondents' counsel, Appellants filed and served a Motion to Dismiss and an Answer. The next day, Appellants filed and served a Motion for Enlargement of Time and to Set Aside Any Entry of Default. On January 7, 2014, Judge Verdin signed an Order of Default, but did not enter a judgment. After a hearing held on May 20, 2014, Judge Lee issued an order dated July 11, 2014, and filed July 22, 2014 (the "July 22 Order"). Appellants moved to alter or amend the July 22 Order, but Judge Lee denied their request in an order dated September 4, 2014, and filed September 19, 2014 (the "September 19 Order"). Appellants subsequently served and filed a Notice of Appeal of the July 22 Order and the September 19 Order (collectively, the "Orders"). Thereafter, Respondents filed the instant Motion seeking dismissal of the appeal. For the reasons set forth herein, the Motion should be denied.

¹ In the order referred to herein as the "September 19 Order," Judge Lee found that "[Ms.] Keziah did not have actual authority to accept service[.]"

ARGUMENT

South Carolina law permits appeals of orders “involving the merits.” S.C. Code Ann. § 14-3-330(1). “An order ‘involves the merits,’ as that term is used in Section 14-3-330(1) and is immediately appealable when it finally determines some substantial matter forming the whole or part of some cause of action or defense.” Ex parte Capital U-Drive-It, Inc., 369 S.C. 1, 7, 630 S.E.2d 464, 467 (2006). For example, in Cooke v. Palmetto Health Alliance, 367 S.C. 167, 624 S.E.2d 439 (Ct. App. 2005), the defendant hospital asserted an exclusive remedy defense based on the Workers’ Compensation Act, claiming the plaintiff was either a statutory employee or a borrowed servant. The circuit court issued an order concluding the plaintiff was not a statutory employee or borrowed servant. On appeal, this Court held the order was immediately appealable because, in determining the merits of the hospital’s exclusive remedy defense, the order “finally determined a substantial matter forming a part of the Hospital’s defense[.]” Id. at 174, 624 S.E.2d at 442

In this case, one of Appellants’ defenses, asserted pursuant to Rule 12(b)(5), SCRCF, is that they were improperly served. Judge Lee “finally determined” the merits of that defense in the July 22 Order, writing in the last sentence of that order that “[Appellants] were properly served under Rule 4[.]” Accordingly, the Orders are immediately appealable pursuant to Section 14-3-330(1) and Cooke because they “involve the merits” of Appellants’ Rule 12(b)(5) defense.

The current procedural posture of this case is *identical* to that in which the Supreme Court issued its opinion in Richardson v. P.V., Inc., 383 S.C. 610, 682 S.E.2d 263 (2009), a case on which both Respondents and Judge Lee have based their positions

regarding the propriety of service on Appellants. Appellants' review of the Supreme Court's case file in that matter revealed that the circuit court in Richardson entered defaults and ordered that damages hearings be held in orders dated June 24, 2005.² Exhibits A & B. The damages hearings were delayed when, on October 14, 2005, the defendants moved to set aside the defaults. Exhibits C & D. The circuit court held a hearing on the defendants' motions on April 13, 2006, during which the court stated: "[A]s we stand right now [the Defendants are] just in default. There's been no default judgment issued." Exhibit E. On August 24, 2006, the circuit court entered an order denying the defendants' motions. Exhibit F. The defendants moved for reconsideration, but the circuit court denied their requests in a form order entered August 8, 2007. Exhibit G. The defendants then filed a Notice of Appeal. On November 6, 2008, after the parties' briefs had been finalized and the case had been set for oral argument before the Court of Appeals, the Supreme Court certified the appeal pursuant to Rule 204(b), SCACR. Exhibit H. The Court of Appeals subsequently removed the case from its roster. Exhibit I. The Supreme Court heard argument on May 28, 2009, and issued its opinion on August 24, 2009. According to the circuit court's electronic records, judgment in favor of the plaintiff was subsequently entered, for the first time, on November 12, 2009.

Though the plaintiff in Richardson apparently did not contest the propriety of the appeal, both this Court and the Supreme Court have the authority to dismiss appeals *sua sponte*. See, e.g., Brown v. Greenwood Sch. Dist. 50 Bd. of Trustees, 344 S.C. 522, 524-25, 544 S.E.2d 642, 643 (Ct. App. 2001) (dismissing an appeal despite the fact no motion to dismiss appeal was made). Neither did so in Richardson. Moreover, the undersigned

² The Richardson case involved two parallel actions: Civil Action Nos. 2005-CP-22-00356 and 2005-CP-22-00357.

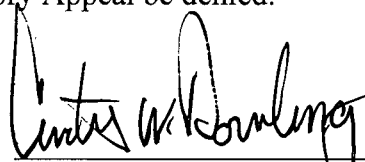
is informed and believes that the Supreme Court would not have certified an improper interlocutory appeal for direct, discretionary review. Appellants relied on the Supreme Court's action in Richardson—along with Section 14-3-330(1) and Cooke—in filing this appeal.

In arguing for dismissal, Respondents rely primarily on Jefferson by Johnson v. Gene's Used Cars, Inc., 295 S.C. 317, 368 S.E.2d 456 (1988), and Thynes v. Lloyd, 294 S.C. 152, 363 S.E.2d 122 (Ct. App. 1987). However, in neither of those cases did the trial court “finally determine” the merits of a cause of action or defense, whereas in this case Judge Lee specifically found, in the July 22 Order, that Appellants were properly served, thus ruling on the merits of Appellants' Rule 12(b)(5) defense. Moreover, service in Jefferson and Thynes was uncontested. On the other hand, in Richardson, a case in which, like this one, service was hotly contested, the Supreme Court certified the circuit court's denial of relief from default for direct review prior to the entry of judgment. Like Richardson, this is not a run-of-the-mill default case, but one involving important questions regarding the propriety of service of process. Accordingly, Jefferson and Thynes are inapposite and the Orders are immediately appealable.

Finally, the Motion and Respondents' supporting memorandum contain several accusations of bad faith and improper conduct against the undersigned. Appellants will not give those accusations the dignity of a response except to state that the foregoing demonstrates, at the very least, that this appeal is not frivolous. Appellants are merely following the course charted by the Supreme Court in Richardson, a case procedurally identical to this one.

CONCLUSION

For the above-stated reasons, Appellants, Capital Growth Corporation d/b/a CGC Management Company and Fairhill, Ltd. d/b/a Fairhill Ltd., respectfully request that Respondents' Motion to Dismiss Interlocutory Appeal be denied.



Curtis W. Dowling, S.C. Bar No. 6493
Matthew G. Gerrald, S.C. Bar No. 76236
Barnes, Alford, Stork & Johnson, LLP
1613 Main Street (29201)
Post Office Box 8448
Columbia, SC 29202
(803) 799-1111
Attorneys for Appellants

October 17, 2014

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Alison Renee Lee, Circuit Court Judge

Appellate Case No. 2014-002080
Civil Action No. 2013-CP-23-05159

Cheyenne Burrell and Richard Burrell, Respondents,

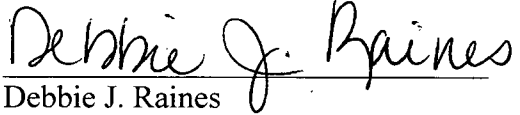
v.

Capital Growth Corporation d/b/a CGC Management Company
and Fairhill, Ltd. d/b/a Fairhill Ltd., L.P., Appellants.

PROOF OF SERVICE

I, the undersigned employee of Barnes, Alford, Stork & Johnson, LLP, do hereby state that I have on October 17, 2014, served and filed the enclosed **APPELLANTS' RETURN TO RESPONDENTS' MOTION TO DISMISS INTERLOCUTORY APPEAL** by depositing copies of the document in the United States Mail, sufficient postage prepaid, with the return addresses clearly noted, addressed as follows:

William A. Jordan, Esquire
Law Office of William A. Jordan
622 Wade Hampton Boulevard
Post Office Box 1687
Greenville, SC 29609


Debbie J. Raines
Barnes, Alford, Stork & Johnson, LLP
1613 Main Street (29201)
Post Office Box 8448
Columbia, SC 29202
(803) 799-1111

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Alison Renee Lee, Circuit Court Judge

RECEIVED

OCT 17 2014

SC Court of Appeals

Appellate Case No. 2014-002080
Civil Action No. 2013-CP-23-05159

Cheyenne Burrell and Richard Burrell, Respondents,

v.

Capital Growth Corporation d/b/a CGC Management Company
and Fairhill, Ltd. d/b/a Fairhill Ltd., L.P., Appellants.

PROOF OF SERVICE

I, the undersigned employee of Barnes, Alford, Stork & Johnson, LLP, do hereby state that I have on October 17, 2014, served and filed the enclosed **APPELLANTS' RETURN TO RESPONDENTS' MOTION TO DISMISS INTERLOCUTORY APPEAL** by depositing copies of the document in the United States Mail, sufficient postage prepaid, with the return addresses clearly noted, addressed as follows:

William A. Jordan, Esquire
Law Office of William A. Jordan
622 Wade Hampton Boulevard
Post Office Box 1687
Greenville, SC 29609

Debbie J. Raines
Debbie J. Raines
Barnes, Alford, Stork & Johnson, LLP
1613 Main Street (29201)
Post Office Box 8448
Columbia, SC 29202
(803) 799-1111

RECEIVED
OCT 17 2014
SC Court of Appeals

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

Leola Richardson as Personal)
Representative of the Estate of)
Dominick Richardson,)

Civil Action No: 2005-CP-22-356

Plaintiff,)

vs.)

ORDER OF JUDGMENT

AND

P.V., Inc. and Harbor Inn, Inc.,)

HEARING TO ASCERTAIN JUDGMENT

Defendants.)

IT APPEARING from the affidavit of William P. Walker, Jr., attorney for the Plaintiff, that the Defendants in this matter have been duly served with the Summons and Complaint and that more than thirty (30) days have elapsed during which no responsive pleading was filed by the Defendants; and

IT FURTHER APPEARING that a hearing to ascertain damages pursuant to Rule 55, South Carolina Rules of Civil Procedure, should be held to determine the amount owed to the Plaintiff.

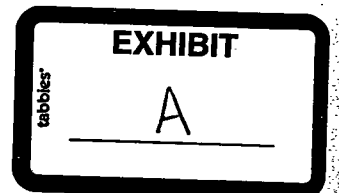
IT IS ORDERED, ADJUDGED AND DECREED that the Defendants are hereby in default and a judgment in an amount to be determined at a hearing to be held shall be filed in favor of the Plaintiff.



JUDGE, FIFTEENTH JUDICIAL CIRCUIT

Georgetown, South Carolina

June 24, 2005



STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

Leola Richardson as Personal Representative of the Estate of Dominick Richardson,

Civil Action No: 2005-CP-22-357

Plaintiff,

vs.

ORDER OF JUDGMENT AND

P.V., Inc. and Harbor Inn, Inc.,


HEARING TO ASCERTAIN JUDGMENT

Defendants.

IT APPEARING from the affidavit of William P. Walker, Jr., attorney for the Plaintiff, that the Defendants in this matter have been duly served with the Summons and Complaint and that more than thirty (30) days have elapsed during which no responsive pleading was filed by the Defendants; and

IT FURTHER APPEARING that a hearing to ascertain damages pursuant to Rule 55, South Carolina Rules of Civil Procedure, should be held to determine the amount owed to the Plaintiff.

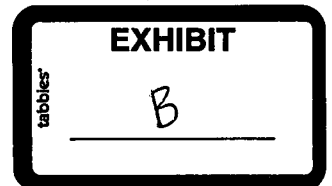
IT IS ORDERED, ADJUDGED AND DECREED that the Defendants are hereby in default and a judgment in an amount to be determined at a hearing to be held shall be filed in favor of the Plaintiff.



JUDGE, FIFTEENTH JUDICIAL CIRCUIT

Georgetown, South Carolina

June 24, 2005



STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF COMMON PLEAS
 FAMILY COURT

Leola Richardson as PR,
 Plaintiff

v.

P.V. Inc. and Harbor Inn, Inc.,
 Defendant

check box above indicating submitting party

CASE NO.

2005-CP-22-356

**MOTION INFORMATION FORM
AND COVER SHEET**

name, S.C. Bar no. and address of plaintiff's attorney
William P. Walker, Jr., Esq., PO Box 949, Lexington, SC 29072
telephone:(803) 359-6194 fax:(803) 957-4584
e-mail:bw@walkermorgan.com other:

name, S.C. Bar no. and address of defendant's attorney
J. Dwight Hudson, Esq. 1203 48th Ave. N., Ste 111, Myrtle
Beach, SC 29577; Bar # 002753
telephone:692-9889 fax:692-9190
e-mail:mgraham12@sc.rr.com other:

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: To Set Aside Default
Estimated Time Needed: 15 minutes

Court Reporter Needed: YES / NO (circle one)

SECTION II: Motion Type

- Written motion attached
 Form Motion -

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff / Defendant
Date submitted

SECTION III: Motion Fee

- PAID - AMOUNT
 EXEMPT: (check reason) Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRCP)
 Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
 Other:

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order.
 Other:

JUDGE

CODE:

Date:

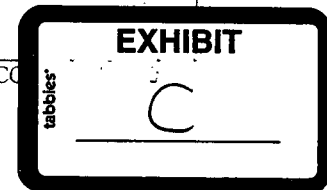
CLERK'S VERIFICATION

Collected by: BE
(print name)

DATE FILED

- MOTION FEE COLLECTED: 25.00
 CONTESTED - AMOUNT DUE: _____

Paid 10-14-05



STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
CASE NO.: 2005-CP-22-356

Leola Richardson as Personal)
Representative of the Estate of)
Dominick Richardson,)
)
Plaintiff,)

vs.)

P.V. Inc. and Harbor Inn, Inc.,)
)
Defendants.)

**NOTICE OF MOTION AND MOTION TO
SET ASIDE AND/OR RELIEVE ENTRY /
AFFIDAVIT OF DEFAULT**

FILED
GEORGETOWN COUNTY, S.C.
2005 OCT 14 AM 9:56
ALEXANDER WHITE
CLERK OF COURT

TO: THE PARTIES AND THEIR COUNSEL OF RECORD

YOU WILL PLEASE TAKE NOTICE that the undersigned counsel for Defendant, properly referenced as P.V. Inc., d/b/a Harbor Inn, will move before the presiding Judge of the Fifteenth Judicial Circuit at the Courtroom of the Georgetown County Court House within ten days after service hereof, exclusive of the date of service, or as soon thereafter as counsel may be heard, for the following:

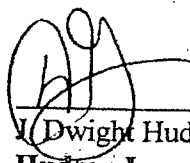
- ◆ An Order setting aside the Default, including, but not limited to, the Affidavit & Motion dated June 20, 2005, recorded June 21, 2005 and the Order of Judgment and Hearing to Ascertain Judgment dated June 24, 2005, filed June 24, 2005

This Motion will be based upon Rule 55 of the South Carolina Rules of Civil Procedure and the grounds for this motion are that within the meaning, standards and case law interpreting that rule,

Defendant had and can show "good cause": Alternatively, and/or additionally, based upon Rule 60 of the South Carolina Rules of Civil Procedure, the Order of Judgment and Hearing to Ascertain Judgment should be set aside on the grounds of "mistake, inadvertence, surprise or excusable neglect", and/or that the "judgment is void", within the meaning, standards and case law interpreting that rule.

This Motion will be based upon the laws of the State of South Carolina, including, but not limited to Rules 55 and/or 60 of the South Carolina Rules of Civil Procedure, upon the record in this cause, and upon such other and further Affidavits and evidence as may be hereafter submitted.

I SO MOVE:



Dwight Hudson, Esquire
Hudson Law Offices
1203 48th Avenue North
Suite 111
Myrtle Beach, SC 29577
(843) 692-9889
Attorney For: Defendants

FILED
HENOPELOWN COUNTY, S.C.
2005 OCT 14 AM 9:56
ALMA X. WHITE
CLERK OF COURT

Dated:
October 10, 2005

Certification of Service:

This is to certify that the foregoing was served by HUDSON LAW OFFICES by and through its agents, servants and employees on October 10, 2005 by placing the same in the United States mail with sufficient postage affixed thereto, and by transmitting the same via facsimile and addressed and transmitted as follows:

William P. Walker Jr. Esq.
Walker & Morgan, L.L.C.
PO Box 949
Lexington, SC 29072
Fax: (803) 957-4584

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF COMMON PLEAS
 FAMILY COURT

Leola Richardson as PR,
 Plaintiff

v.

P.V. Inc. and Harbor Inn, Inc.,
 Defendant

check box above indicating submitting party

CASE NO.

2005-CP-22-356

**MOTION INFORMATION FORM
AND COVER SHEET**

name, S.C. Bar no. and address of plaintiff's attorney
William P. Walker, Jr., Esq., PO Box 949, Lexington, SC 29072
telephone:(803) 359-6194 fax:(803) 957-4584
e-mail:bw@walkermorgan.com other:

name, S.C. Bar no. and address of defendant's attorney
J. Dwight Hudson, Esq. 1203 48th Ave. N., Ste 111, Myrtle
Beach, SC 29577; Bar # 002753
telephone:692-9889 fax:692-9190
e-mail:mgraham12@sc.rr.com other:

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: AMENDED MOTION To Set Aside Default

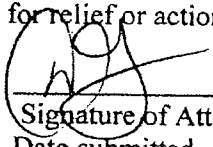
Estimated Time Needed: 15 minutes

Court Reporter Needed: YES / NO (circle one)

SECTION II: Motion Type

Written motion attached
 Form Motion -

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for Plaintiff / Defendant

Date submitted

SECTION III: Motion Fee

PAID - AMOUNT

EXEMPT: Rule to Show Cause in Child or Spousal Support

(check reason) Domestic Abuse or Abuse and Neglect

Indigent Status State Agency v. Indigent Party

Sexually Violent Predator Act Post-Conviction Relief

Motion for Stay in Bankruptcy

Motion for Publication Motion for Execution (Rule 69, SCRPC)

Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter:

Other:

FILED
GEORGETOWN
2005 DEC 12 AM 9:55
ALMA Y. WILHE
CLERK OF COURT

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached order.

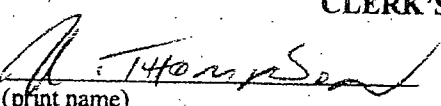
Other:

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

Collected by: 
(print name)

DATE FILED

MOTION FEE COLLECTED: \$25.00 12/12/05

CONTESTED - AMOUNT DUE: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
CASE NO.: 2005-CP-22-356

Leola Richardson as Personal)
Representative of the Estate of)
Dominick Richardson,)
)
Plaintiff,)
)
vs.)
)
P.V. Inc. and Harbor Inn, Inc.,)
)
Defendants.)
_____)

AMENDED
NOTICE OF MOTION AND MOTION TO
SET ASIDE AND/OR RELIEVE ENTRY /
AFFIDAVIT OF DEFAULT

FILED
GEORGETOWN COUNTY S.C.
2005 DEC 12 AM 9:55
ALMA Y. WHITE
CLERK OF COURT

TO: THE PARTIES AND THEIR COUNSEL OF RECORD

YOU WILL PLEASE TAKE NOTICE that the undersigned counsel for Defendant, properly referenced as P.V. Inc., d/b/a Harbor Inn, will move before the presiding Judge of the Fifteenth Judicial Circuit at the Courtroom of the Georgetown County Court House within ten days after service hereof, exclusive of the date of service, or as soon thereafter as counsel may be heard, for the following:

- ◆ An Order setting aside the Default, including, but not limited to, the Affidavit & Motion dated June 20, 2005, recorded June 21, 2005 and the Order of Judgment and Hearing to Ascertain Judgment dated June 24, 2005, filed June 24, 2005

This Motion will be based upon Rules 55 and 60 of the South Carolina Rules of Civil Procedure. The grounds for this motion are as follows:

1. Within the meaning, standards and case law interpreting those rules, "good cause" exists for setting aside the entry of default; and
2. Defendant has a meritorious defense to the action; and
3. The judgment/entry is void because service of process was improper, defective and not in accord with the provisions of South Carolina law.

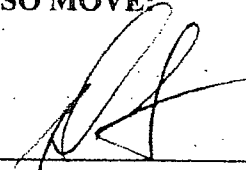
Defendant also moves that should this Motion be denied, the Court schedule a subsequent hearing to determine this Motion based upon the ground of mistake, inadvertence, surprise or excusable neglect. Defendant seeks this bifurcated hearing because its carrier is an Australian company and this matter involves an insurance agency in Columbia, SC, an insurance general agency in Charleston, SC, an adjusting company in Charleston, SC and the carrier in Australia. All of these entities are conducting investigations and will shortly have full information to support such a Motion. However, in the interest of expediency and because Defendant feels that the first part of this Motion will resolve the matter and end any necessity for further hearings, Defendant moves the Court for this bifurcated Motion.

To any extent necessary, Defendant specifically reserves the right to Move pursuant to Rule 60(b)(1) and in making this Motion does not wave that right.

Should all of the motions to set aside be denied, Defendant moves for a continuance of the damages trial for a sufficient time to allow for full and complete discovery.

This Motion will be based upon the laws of the State of South Carolina, including, but not limited to Rules 55 and/or 60 of the South Carolina Rules of Civil Procedure, upon the record in this cause, and upon such other and further Affidavits and evidence as may be hereafter submitted.

I SO MOVE:



J. Dwight Hudson, Esquire
Hudson Law Offices
1203 48th Avenue North
Suite 111
Myrtle Beach, SC 29577
(843) 692-9889
Attorney For: Defendants

Dated:
November 23, 2005

Certification of Service:

This is to certify that the foregoing was served by HUDSON LAW OFFICES by and through its agents, servants and employees on November 23, 2005 by placing the same in the United States mail with sufficient postage affixed thereto and by transmitting the same via Email addressed and transmitted as follows:

William P. Walker Jr. Esq.
Walker & Morgan, L.L.C.
PO Box 949
Lexington, SC 29072
Email: bw@walkermorgan.com

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF COMMON PLEAS
 FAMILY COURT

Leola Richardson as PR,
 Plaintiff

v.

P.V. Inc. and Harbor Inn, Inc.,
 Defendant

check box above indicating submitting party

CASE NO.

2005-CP-22-357

**MOTION INFORMATION FORM
AND COVER SHEET**

name, S.C. Bar no. and address of plaintiff's attorney
William P. Walker, Jr., Esq., PO Box 949, Lexington, SC 29072
telephone:(803) 359-6194 fax:(803) 957-4584
e-mail:bw@walkermorgan.com other:

name, S.C. Bar no. and address of defendant's attorney
J. Dwight Hudson, Esq. 1203 48th Ave. N., Ste 111, Myrtle
Beach, SC 29577; Bar # 002753
telephone:692-9889 fax:692-9190
e-mail:mgraham12@sc.rr.com other:

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: To Set Aside Default

Estimated Time Needed: 15 minutes

Court Reporter Needed: YES / NO (circle one)

SECTION II: Motion Type

- Written motion attached
 Form Motion -

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff / Defendant
Date submitted

SECTION III: Motion Fee

- PAID - AMOUNT
 EXEMPT: (check reason) Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRPC)
 Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter:
 Other:

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order.
 Other:

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

Collected by: BE
(print name)

DATE FILED

- MOTION FEE COLLECTED: 25.00
 CONTESTED - AMOUNT DUE: _____

Paid 10-14-05

FILED
CLERK OF COURT
2005 OCT 14 AM 9:57
GEORGETOWN COUNTY, S.C.



STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
CASE NO.: 2005-CP-22-357

Leola Richardson as Personal)
Representative of the Estate of)
Dominick Richardson,)

Plaintiff,)

vs.)

P.V. Inc. and Harbor Inn, Inc.,)

Defendants.)

**NOTICE OF MOTION AND MOTION TO
SET ASIDE AND/OR RELIEVE ENTRY /
AFFIDAVIT OF DEFAULT**

FILED
GEORGETOWN COUNTY, S.C.
2005 OCT 14 AM 9:57
KIMBERLY Y. WHITE
CLERK OF COURT

TO: THE PARTIES AND THEIR COUNSEL OF RECORD

YOU WILL PLEASE TAKE NOTICE that the undersigned counsel for Defendant, properly referenced as P.V. Inc., d/b/a Harbor Inn, will move before the presiding Judge of the Fifteenth Judicial Circuit at the Courtroom of the Georgetown County Court House within ten days after service hereof, exclusive of the date of service, or as soon thereafter as counsel may be heard, for the following:

- ♦ An Order setting aside the Default, including, but not limited to, the Affidavit & Motion dated June 20, 2005, recorded June 21, 2005 and the Order of Judgment and Hearing to Ascertain Judgment dated June 24, 2005, filed June 24, 2005

This Motion will be based upon Rule 55 of the South Carolina Rules of Civil Procedure and the grounds for this motion are that within the meaning, standards and case law interpreting that rule,

Defendant had and can show "good cause". Alternatively, and/or additionally, based upon Rule 60 of the South Carolina Rules of Civil Procedure, the Order of Judgment and Hearing to Ascertain Judgment should be set aside on the grounds of "mistake, inadvertence, surprise or excusable neglect", and/or that the "judgment is void", within the meaning, standards and case law interpreting that rule.

This Motion will be based upon the laws of the State of South Carolina, including, but not limited to Rules 55 and/or 60 of the South Carolina Rules of Civil Procedure, upon the record in this cause, and upon such other and further Affidavits and evidence as may be hereafter submitted.

I SO MOVE:



J. Dwight Hudson, Esquire
Hudson Law Offices
1203 48th Avenue North
Suite 111
Myrtle Beach, SC 29577
(843) 692-9889
Attorney For: Defendants

Dated:
October 10, 2005

Certification of Service:

This is to certify that the foregoing was served by HUDSON LAW OFFICES by and through its agents, servants and employees on October 10, 2005 by placing the same in the United States mail with sufficient postage affixed thereto, and by transmitting the same via facsimile and addressed and transmitted as follows:

William P. Walker Jr. Esq.
Walker & Morgan, L.L.C.
PO Box 949
Lexington, SC 29072
Fax: (803) 957-4584

FILED
M. CHRISTINA COUNTY, S.C.
2005 OCT 14 AM 9:57
ALMA Y. WHITE
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF COMMON PLEAS
 FAMILY COURT

Leola Richardson as PR,
 Plaintiff

v.

P.V. Inc. and Harbor Inn, Inc.,
 Defendant

check box above indicating submitting party

CASE NO.

2005-CP-22-357

**MOTION INFORMATION FORM
AND COVER SHEET**

name, S.C. Bar no. and address of plaintiff's attorney

William P. Walker, Jr., Esq., PO Box 949, Lexington, SC 29072
telephone:(803) 359-6194 fax:(803) 957-4584
e-mail:bw@walkermorgan.com other:

name, S.C. Bar no. and address of defendant's attorney

J. Dwight Hudson, Esq. 1203 48th Ave. N., Ste 111, Myrtle
Beach, SC 29577; Bar # 002753
telephone:692-9889 fax:692-9190
e-mail:mgraham12@sc.rr.com other:

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: AMENDED To Set Aside Default

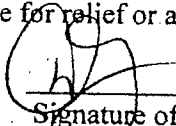
Estimated Time Needed: 15 minutes

Court Reporter Needed: YES / NO (circle one)

SECTION II: Motion Type

Written motion attached
 Form Motion -

I hereby move for relief or action by the court as set forth in the attached proposed order.



Signature of Attorney for Plaintiff / Defendant
Date submitted

SECTION III: Motion Fee

PAID - AMOUNT

- EXEMPT: Rule to Show Cause in Child or Spousal Support
- (check reason) Domestic Abuse or Abuse and Neglect
- Indigent Status State Agency v. Indigent Party
- Sexually Violent Predator Act Post-Conviction Relief
- Motion for Stay in Bankruptcy
- Motion for Publication Motion for Execution (Rule 69, SCRPC)
- Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
- Name of Court Reporter:
- Other:

FILED
GEORGETOWN
2005 DEC 12 AM 9:55
ALMA H. SMITH
CLERK OF COURT

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached order.
 Other:

JUDGE

CODE:

Date:

CLERK'S VERIFICATION

Collected by: Alma H. Smith
(print name)

DATE FILED

MOTION FEE COLLECTED: \$25.00
 CONTESTED - AMOUNT DUE: _____

12/12/05

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
CASE NO.: 2005-CP-22-357

FILED
GEORGETOWN COUNTY S.C.
2005 DEC 12 AM 9:55
ALMA J. WILHE
CLERK OF COURT

Leola Richardson as Personal)
Representative of the Estate of)
Dominick Richardson,)
)
Plaintiff,)
)
vs.)
)
P.V. Inc. and Harbor Inn, Inc.,)
)
Defendants.)

AMENDED
**NOTICE OF MOTION AND MOTION TO
SET ASIDE AND/OR RELIEVE ENTRY /
AFFIDAVIT OF DEFAULT**

TO: THE PARTIES AND THEIR COUNSEL OF RECORD

YOU WILL PLEASE TAKE NOTICE that the undersigned counsel for Defendant, properly referenced as P.V. Inc., d/b/a Harbor Inn, will move before the presiding Judge of the Fifteenth Judicial Circuit at the Courtroom of the Georgetown County Court House within ten days after service hereof, exclusive of the date of service, or as soon thereafter as counsel may be heard, for the following:

- ◆ An Order setting aside the Default, including, but not limited to, the Affidavit & Motion dated June 20, 2005, recorded June 21, 2005 and the Order of Judgment and Hearing to Ascertain Judgment dated June 24, 2005, filed June 24, 2005

This Motion will be based upon Rules 55 and 60 of the South Carolina Rules of Civil Procedure. The grounds for this motion are as follows:

1. Within the meaning, standards and case law interpreting those rules, "good cause" exists for setting aside the entry of default; and
2. Defendant has a meritorious defense to the action; and
3. The judgment/entry is void because service of process was improper, defective and not in accord with the provisions of South Carolina law.

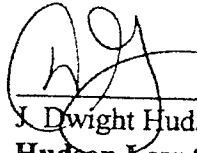
Defendant also moves that should this Motion be denied, the Court schedule a subsequent hearing to determine this Motion based upon the ground of mistake, inadvertence, surprise or excusable neglect. Defendant seeks this bifurcated hearing because its carrier is an Australian company and this matter involves an insurance agency in Columbia, SC, an insurance general agency in Charleston, SC, an adjusting company in Charleston, SC and the carrier in Australia. All of these entities are conducting investigations and will shortly have full information to support such a Motion. However, in the interest of expediency and because Defendant feels that the first part of this Motion will resolve the matter and end any necessity for further hearings, Defendant moves the Court for this bifurcated Motion.

To any extent necessary, Defendant specifically reserves the right to Move pursuant to Rule 60(b)(1) and in making this Motion does not wave that right.

Should all of the motions to set aside be denied, Defendant moves for a continuance of the damages trial for a sufficient time to allow for full and complete discovery.

This Motion will be based upon the laws of the State of South Carolina, including, but not limited to Rules 55 and/or 60 of the South Carolina Rules of Civil Procedure, upon the record in this cause, and upon such other and further Affidavits and evidence as may be hereafter submitted.

I SO MOVE:



J. Dwight Hudson, Esquire
Hudson Law Offices
1203 48th Avenue North
Suite 111
Myrtle Beach, SC 29577
(843) 692-9889
Attorney For: Defendants

Dated:
November 23, 2005

Certification of Service:

This is to certify that the foregoing was served by HUDSON LAW OFFICES by and through its agents, servants and employees on November 23, 2005 by placing the same in the United States mail with sufficient postage affixed thereto and by transmitting the same via Email addressed and transmitted as follows:

William P. Walker Jr. Esq.
Walker & Morgan, L.L.C.
PO Box 949
Lexington, SC 29072
Email: bw@walkermorgan.com

1 papers. He came back four or five days later. He dealt,
2 called Mr. Fincher up, dealt with Mr. Fincher, it's in the
3 deposition. So, he did everything he was supposed to do.
4 The problem is that nobody did anything legally to comply with
5 the mandate of the summons. So, as a consequence I did what I
6 was supposed to do, file an affidavit of default, ask for a
7 hearing on damages and here we are. Now ---

8 THE COURT: But I mean, now -- but as we stand right
9 now he's just in default. There's been no default judgment
10 issued.

11 MR. WALKER: No, sir, it's just a -- you're exactly
12 right.

13 THE COURT: Okay, so, and I understand that once you
14 -- he found out default I'm assuming that's when they filed
15 this motion and everything.

16 MR. WALKER: Yes, sir.

17 THE COURT: So, even if I find effective service let
18 me hear as to why I shouldn't set aside the default to allow
19 him to file a late answer.

20 MR. WALKER: All right, I just want ---

21 THE COURT: Okay.

22 MR. WALKER: --- before -- let me just say one thing.
23 He quoted the Simpson case, Moore versus Simpson.

24 THE COURT: Right.

25 MR. WALKER: The Simpson case says there must be

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT

Leola Richardson as Personal)
Representative of the Estate of)
Dominick Richardson,)

Case Nos. 2005-CP-22-356
2005-CP-22-357

Plaintiff,)

vs.)

ORDER

P.V., Inc., and Harbor Inn, Inc.,)

Defendants.)

FILED
GEORGETOWN COUNTY, S.C.
2006 AUG 24 A 10:45 AM
ALMA Y. WHITE
CLERK OF COURT

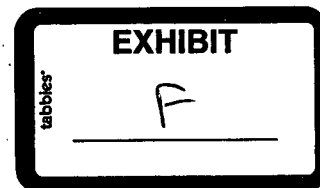
A hearing was convened on Defendants' Motion to Set Aside a Default Judgment. And Motion to Dismiss for lack of jurisdiction due to improper service on P.V., Inc., and Harbor Inn, Inc. The Affidavit of Default was entered on June 21, 2005 pursuant to S.C.R. Civ. P. 55(b)(2). Present at the hearing were William P. Walker, Jr., attorney for the Plaintiff, J. Dwight Hudson, attorney for the Defendants, and Jay Patidar, registered agent and owner of the Defendants.

The Court makes the following findings of fact and conclusions of law for consideration and adoption by the Court, pursuant to S.C.R. Civ. P. 52(a).

FINDINGS OF FACT

1. P.V., Inc. and Harbor Inn, Inc., are South Carolina corporations. P.V., Inc. operates the Harbor Inn, a motel located on Church Street in the City of Georgetown, South Carolina.

1
BNC



2. On May 12, 1995, the process server went to Harbor Inn, the registered office of the defendant corporations, to serve the Summons and Complaint on the registered agent¹.

3. The process server was informed by a motel employee and desk clerk that the registered agent was out of town and, with the process server present, the employee contacted the registered agent by the telephone.

4. The process server was handed the phone by the desk clerk and spoke with the registered agent on the phone and informed the registered agent that he had papers to serve on the registered agent concerning the events at issue in this action, namely a drowning which had occurred on the motel premises on June 19, 2004, which is the subject of this lawsuit.

5. The registered agent stated that he knew about the lawsuit but would not be back in town for four or five days. The process server told the registered agent that he did not want to have to come back in four or five days and requested permission to leave the papers with the employee at the registered office. The registered agent told the process server that it was up to him (the process server) whether to leave the papers or to bring them back again later.

6. The registered agent told the process server that it was up to him (the process server) whether to leave the papers or to bring them back again later.

7. The defendants' registered agent authorized the process server to leave the papers at the motel, thereby constructively taking delivery of process.

8. The process server left the Summons and Complaint with the desk clerk at the registered office on May 12, 2005.

9. After speaking with the process server on the telephone, the registered agent then telephoned his insurance agent in Columbia, SC, on the day of service, May 12, 1995, and

¹ These facts are taken from depositions and affidavits submitted to the Court of the registered agent, Patidar, the desk clerk, Demetria Cruel, and the process server, Bobby Asbill.

2 / MK

informed him that a process server was at the registered office to serve papers on him concerning the drowning.

10. Also on the same day, after the process server had left the registered office and after the registered agent had spoken with his insurance agent, the registered agent then telephoned the desk clerk at the motel and asked her if the process server had taken the papers with him or rather had left them with her.

11. The desk clerk told the registered agent that the process server had left the papers.

12. The registered agent then told the desk clerk to fax the papers to the defendants' insurance agent. The desk clerk faxed the summons and complaint to the defendants' insurance agent on May 12, 2005.

13. Upon his return from out of town, the registered agent saw and ostensibly the Summons and Complaint. Since copies had already been faxed to his insurance agent, the registered agent simply put the Summons and Complaint in his office file.

14. The registered agent received actual notice and acknowledged receipt of the Summons and Complaint.

15. The process server executed and the plaintiff filed an Affidavit of Service stating that the process server had served a copy of the Summons and Complaint on the defendants by leaving a copy thereof with defendants' employee at the registered office on May 12, 1995.

16. More than thirty days passed after the process server delivered the summons and complaint to the defendants' employee at the registered office and neither the defendants nor anyone on the defendants' behalf filed responsive pleadings to the summons and complaint.

17. Plaintiff filed an Affidavit of Default and a hearing was scheduled to ascertain damages on October 17, 2005.

CONCLUSIONS OF LAW

Service of process serves at least two purposes: it confers personal jurisdiction on the court and assures defendants of reasonable notice of the action. *Moore v. Simpson*, 322 S.C. 518, 523, 473 S.E.2d 64, 66 (Ct. App. 1996). Exacting compliance with the rules of civil procedure is not required to effect service of process; rather, the court examines whether the plaintiff has sufficiently complied with the rules such that the court has personal jurisdiction of the defendant and the defendant has notice of the proceedings. *Roche v. Young Brothers, Inc. of Florence*, 318 S.C. 207, 210, 456 S.E.2d 897, 899 (1995); *Fassett v. Evans*, 364 S.C. 42, 47, 610 S.E.2d 841, 844 (Ct. App. 2005).

Service on a corporation does not require in-hand delivery to an officer or agent, but rather any effective form of delivery to the officer or agent is sufficient. *See Humphries v. Spitz*, 284 S.C. 521, 522-23, 327 S.E.2d 370, 371 (Ct. App. 1985) (former husband was effectively served in divorce action where process server gave papers to former husband's sister who gave them to another sister who delivered them to former husband and former husband then went to former wife's attorney's office and signed deed of marital home to former wife).

An acknowledgment or acceptance of service is the full equivalent of actual personal service. *Priester v. Priester*, 131 S.C. 284, 127 S.E. 18, 19 (1925).

The failure of an insurer to answer a complaint is imputed to the insured for the purpose of determining whether entry of default against the insured should be set aside. *Pilgrim v. Miller*, 350 S.C. 637, 642, 567 S.E.2d 527, 529 (Ct. App. 2002).

For good cause shown, the court may set aside an entry of default. Rule 55(c), SCRPC. However, to show good cause, the moving party must show due diligence. *Brock v. Brock*, 225 S.C. 261, 81 S.E.2d 898, 900 (1954) (where respondent disregarded proceedings and treated

4/MHC

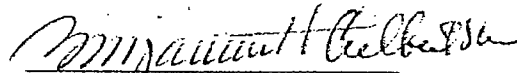
them with contempt, there was lack of due diligence required by law to set aside a default judgment).

Where no explanation is given for the failure of an insurer to respond to the complaint, the court does not abuse its discretion in refusing to set aside an entry of default. *Williams v. Ray*, 232 S.C. 373, 102 S.E.2d 368, 373 (1958) (where defendant was served with summons and handed it to his insurer, which sent it to a local attorney, trial court did not abuse its discretion in refusing to open default judgment, noting that agency could be negligent and yet there be no proof of excusable neglect).

Now, therefore, having considered all evidence presented, listening to the arguments of counsel, it is hereby

ORDERED, ADJUDGED AND DECREED that the Defendants' Motions to challenge service of process and jurisdiction and the Motion to Set Aside Entry of Default are denied.

Dated: August 24, 2006


Benjamin H. Culbertson
Special Circuit Court Judge and Master in
Equity

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2005CP2200356

Leola Richardson vs. PV Inc

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.
- 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: _____

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Motion for reconsideration is denied and my prior order of August 6, 2006 is affirmed.

FILED
CLERK OF COURT
2007 AUG 8 PM 12:50
LEXINGTON, S.C.

Dated at Georgetown, South Carolina, this 3rd day of August, 2007.

Court Reporter:

Benjamin H. Culbertson

PRESIDING JUDGE - Benjamin H. Culbertson

This judgment was entered on the , and a copy mailed first class this , to attorneys of record or to parties (when appearing pro se) as follows:

William P jr Walker ATTORNEY AT LAW P
O BOX 949 LEXINGTON, SC 290710000

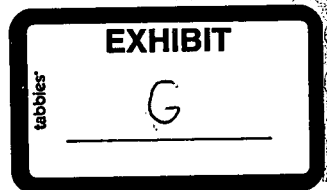
J Dwight Hudson ATTORNEY AT LAW 1203
48TH AVE N STE 111 MYRTLE BEACH, SC
295770000

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

SCRPC APP-24/FORM 4

Alma Y. White - Clerk of Court



The Supreme Court of South Carolina

Leola Richardson as Personal
Representative of the Estate of
Dominick Richardson, Respondent

v.

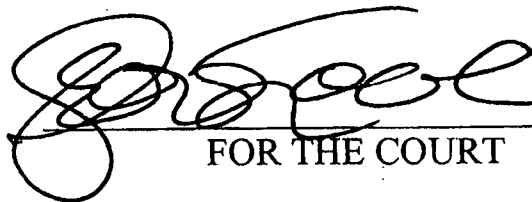
P.V., Inc. and Harbor Inn, Inc., Appellants

The Honorable Benjamin H. Culbertson
Georgetown County
Trial Court Case No. 2005-CP-22-00356
2005-CP-22-00357

ORDER

Pursuant to Rule 204(b), SCACR, this appeal is hereby certified for
review by the South Carolina Supreme Court.

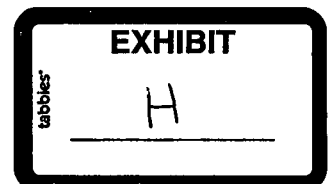
IT IS SO ORDERED.


C.J.
FOR THE COURT

Columbia, South Carolina

November 6, 2008

cc: J. Dwight Hudson, Esquire
Mary A. Graham, Esquire
William P. Walker, Jr., Esquire
The Honorable Kenneth A. Richstad





Harbor Inn

The South Carolina Court of Appeals

KENNETH A. RICHSTAD
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

November 10, 2008

J. Dwight Hudson, Esquire
Mary A. Graham, Esq.
Hudson Law Firm
1203 48th Avenue North
Suite 111
Myrtle Beach, SC 29577

William P. Walker, Jr., Esquire
Walker & Morgan, LLC
P.O. Box 949
Lexington, SC 29072

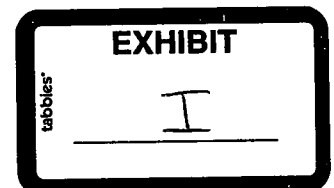
Re: Richardson, Leola v. P.V., Inc

Dear Counsel:

Because the Supreme Court has certified this case, it will be removed from the November 2008 Court of Appeals roster and no argument will be held.

Very truly yours,

V. Claire Allen
DEPUTY CLERK



WELDON R. JOHNSON *
DAVID G. WOLFF
KAY GAFFNEY CROWE *
ALAN J. REYNER †
RICHARD C. THOMAS
ROBERT T. STRICKLAND
CURTIS W. DOWLING
MATTHEW G. GERRALD
EMILY COLLINS BROWN
CATHERINE AVA KOPIEC
JENNIFER I. WAXMAN



BARNES ALFORD

Barnes Alford Stork & Johnson L.L.P.

ATTORNEYS AT LAW

OF COUNSEL
WILLIAM C. STORK
ROGER A. WAY, JR. †

* CERTIFIED CIVIL
COURT MEDIATOR

† CERTIFIED SPECIALIST
IN TAXATION

RUDOLPH C. BARNES
(1917-1995)
JAMES W. ALFORD
(1930-2008)

October 17, 2014

VIA HAND DELIVERY

RECEIVED

OCT 17 2014

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1015 Sumter Street
Post Office Box 11629
Columbia, SC 29211

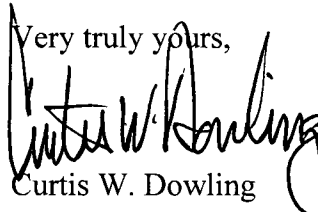
Re: Cheyenne Burrell & Richard Burrell v. Capital Growth Corporation, et al.
Appellate Case No. 2014-002080
Civil Action No. 2013-CP-23-05159
BASJ File No. 76.19907
Client File No. 769877

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of the Appellants' Return to Respondents' Motion to Dismiss Interlocutory Appeal in the above-referenced matter. Please file the original and return one (1) clocked-in copy with our courier.

By copy of this letter, I am also serving the return on counsel for Respondents.

With best regards, I am

Very truly yours,

Curtis W. Dowling

CWD/djr
Enclosures

cc: William A. Jordan, Esquire (w/encl.) (via First Class Mail)

POST OFFICE BOX 8448
OFFICE: 803.799.1111

CURTIS W. DOWLING

1613 MAIN STREET (29201)
FAX: 803.254.1335
WWW.BARNESALFORD.COM

COLUMBIA, SC 29202
CURTIS@BASJLAW.COM