

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas  
L. Casey Manning, Circuit Court Judge

---

Civil Action No. 2011-CP-40-01980  
Appellate Case No. 2013-002673

---

Robert S. Jones,..... Appellant,

v.

Builders Investment Group, LLC,  
Brian D. Boone and Arden Homebuilders, LLC,.....Defendants,

Of Whom  
Builders Investment Group, LLC  
and Brian D. Boone are,.....Respondents.

---

FINAL BRIEF OF RESPONDENTS

---

Thornwell F. Sowell  
SC Bar No. 5197  
SOWELL GRAY STEPP & LAFFITTE, LLC  
Post Office Box 11449  
Columbia, South Carolina 29211  
(803) 929-1400

David C. Dick  
SC Bar No. 78053  
LAW OFFICE OF DAVID C. DICK  
39 Broad Street, Suite 205  
Charleston, South Carolina 29401  
(843) 641-7320

**Attorneys for Respondents**

**TABLE OF CONTENTS**

**Table of Authorities ..... iii**

**Statement of the Issues on Appeal..... iv**

**Statement of the Case .....1**

**Facts .....1**

**Argument.....5**

**Conclusion .....15**

## TABLE OF AUTHORITIES

### Cases

*C.A.N. Enterprises, Inc. v. S. Carolina Health & Human Services Fin. Comm'n*,  
296 S.C. 373, 373 S.E.2d 584 (1988) .....6

*Kee v. Lofton*,  
12 Kan. App. 2d 155, 737 P.2d 55 (Ct. App. Kan. 1987).....11

*Kuznik v. Bees Ferry Associates*,  
342 S.C. 579, 538 S.E.2d 15 (Ct. App. 2000).....9

*Laurens Emergency Med. Specialists, PA v. M.S. Bailey & Sons Bankers*,  
355 S.C. 104, 584 S.E.2d 375 (2003) .....8

*Piper v. Am. Fid. & Cas. Co. et al.*,  
154 S.C. 106 (1930) .....8

*RIM Associates v. Blackwell*,  
597 S.E.2d 152, 359 S.C. 170 (Ct. App. 2004).....10

*Shealey v. Am. Health Ins. Corp.*,  
220 S.C. 79, 66 S.E.2d 461 (1951) .....8, 9

*Steinke v. South Carolina Dept. of Labor, Licensing and Regulation*,  
336 S.C. 373, 520 S.E.2d 142 (1999) .....5

### Statutes

S.C. Code Ann. § 36-9-102.....7

### Other Authorities

BLACK'S LAW DICTIONARY 356 (7th ed. 1999).....13

## **STATEMENT OF ISSUES ON APPEAL**

- I. The trial court properly granted Respondents' motion for judgment notwithstanding the verdict, ruling that Appellant Jones had not made actual payment on a loan to Southern First Bank entitling him to contribution from Respondents BIG and Boone.
  
- II. The trial court properly granted Respondents' motion for judgment notwithstanding the verdict, ruling that Respondents BIG and Boone were not required to guaranty a loan from Southern First Bank and thus not liable for any contribution to Appellant.

## STATEMENT OF THE CASE

Respondents Builders Investment Group, LLC (“BIG”) and Brian D. Boone (“Boone”) concur in the Statement of the Case presented in Appellant Robert S. Jones’ (“Jones”) brief.

### FACTS

Holt Family Homes, LLC was formed in 2005 to develop, build, and sell residential homes. (R. p. 231, l. 20 – p. 232, l. 6). At its inception, Holt Family Homes had four initial Class A members: Appellant Jones, Robert A. Keisler (“Keisler”), Carl Edward Buck (“Buck”), and Wetzel Ray Holt (“Holt”). (R. p. 242, ll. 17-25; R. p. 448). These Class A members also served as the managers of Holt Family Homes. (R. p. 419). Holt Family Homes also had five Class B members including BIG. (R. p. 449). Boone had no ownership interest in Holt Family Homes. (R. pp. 448-449).

On January 26, 2007, the managers of Holt Family Homes decided to obtain a loan from Southern First Bank (formerly known as Greenville First Bank, N.A.). (R. p. 490). The loan was for \$300,500 and was signed for by Jones, Keisler, and Buck. (R. p. 490). Jones, Keisler, and Buck were also the only personal guarantors on the loan from Southern First Bank. (R. p. 207, ll. 14-19; R. pp. 491-493).

On April 25, 2007, the managers of Holt Family Homes decided to obtain a second loan from Southern First Bank. (R. p. 494). The loan was for \$199,250 and was signed once again by Jones, Keisler, and Buck. (R. p. 494). Jones, Keisler, and Buck were also the only personal guarantors on this loan. (R. pp. 495-497). Neither BIG nor Boone was a Class A member or manager of Holt Family Homes at the time the loans from Southern First Bank were made. (R. p. 448).

In mid-2007, BIG and Boone agreed to make additional capital contributions and investments in Holt Family Homes. (R. p. 243, ll. 19-23). On July 31, 2007, the Holt Family Homes operating agreement was amended to reflect these investments (“Arden Operating Agreement”). (R. pp. 450-487). As part of the changes to the operating agreement, the name of the LLC was changed from Holt Family Homes to Arden Homebuilders, LLC (“Arden”). (R. p. 450). BIG contributed additional capital of \$625,000 and Boone contributed \$125,000. (R. p. 485). No other members contributed additional capital. (R. p. 458; R. p. 485). In return, BIG and Boone were made Class A members and managers of Arden. (R. p. 458; R. p. 485).

After their addition as Class A members, Boone and BIG signed guaranties on loans to Arden from Bank of America, Wachovia, and Carolina Bank. (R. p. 269, l. 17 – p. 270, l. 5). However, BIG and Boone were never asked to guaranty nor did they guaranty the loan from Southern First. (R. p. 269, ll. 10-16; R. p. 340, ll. 8-17). Section 4.2 of the Arden Operating Agreement specifically provided that the Southern First Loan was guaranteed by “Jones, Keisler, and Buck.” (R. p. 463).

The Class A members also voted to make Boone the managing-member of Arden. (R. p. 303, ll. 14-20). As managing-member Boone was given the responsibilities of the debts of Arden. (R. p. 305, l. 18 - p. 306, l. 2). Boone was the main point of contact for loans with Bank of America, Wachovia, and Carolina First. (R. p. 248, l. 12 – p. 249, l. 16; R. p. 305, l. 18 – p. 306, l. 2). However, Boone never had any involvement with Southern First Bank. (R. p. 305, l. 18 – p. 306, l. 8). He never met any representative at Southern First Bank, did not receive the loan statements or any correspondence from Southern First Bank, and he was never given the responsibility of the Southern First loan.

(R. p. 305, l. 18 – p. 306, l. 8; R. p. 309, l. 23 – p. 311, l. 7). Mr. Keisler remained the main contact with Southern First Bank, and he and Jones handled all dealings with Southern First Bank without input from Boone or BIG. (R. p. 248, l. 12 – p. 249, l. 16; R. p. 305, l. 18 – p. 306, l. 8; R. p. 309, l. 23 – p. 311, l. 7).

On September 25, 2007, Jones, Keisler, and Buck consolidated the two loans at Southern First Bank into one new loan in Arden's name ("Southern First Loan"). (R. p. 500). Again, only Jones, Keisler, and Buck signed the note from Southern First Bank and only Jones, Keisler, and Buck signed personal guaranties on the loan. (R. pp. 501 - 503; R. p. 195, l. 21 – p. 196, l. 2).

On September 24, 2008, the Southern First Loan was modified to remove Buck as a personal guarantor. (R. pp. 509 - 511; R. p. 249, l. 17 – p. 250, l. 18). Only Jones and Keisler signed the new note and only Jones and Keisler signed personal guaranties. (R. pp. 509-511; R. p. 197, ll. 4-12). Further, only Jones and Keisler were involved in the decision to remove Buck as a guarantor. (R. p. 249, l. 17 – p. 250, l. 18). Neither BIG nor Boone was ever asked to vote on the release of Buck as a personal guarantor on the Southern First Loan, and neither BIG nor Boone ever personally guaranteed the Southern First Loan. (R. p. 250, ll. 15-18; R. p. 197, ll. 4-12; R. p. 314, ll. 11-16).

On December 8, 2009, Jones took out a personal loan with Southern First Bank to satisfy the Southern First Loan. (R. pp. 50-51). Southern First Bank marked the Southern First Loan as satisfied on the books and transferred the balance to the personal loan of Jones. (R. p. 338, l. 17 – p. 339, l. 14). Southern First Bank then wrote-off the personal loan of Jones. (R. p. 322, ll. 5-24; R. p. 515). On November 8, 2012, Jones gave Southern First Bank a confession of judgment regarding his personal loan. (R. pp. 562-

564). Jones has not made any actual payments on his personal loan or the confession of judgment. (R. p. 215, l. 11 – p. 216, l. 9; R. p. 324, ll. 4-16).

Jones sought contribution from BIG and Boone for their alleged proportionate share of funds he claims to have paid, but were actually written-off. (R. p. 213, ll. 18-24; R. p. 322, ll. 5-24). This litigation ensued.

## STANDARD OF REVIEW

“In ruling on motions for directed verdict or judgment notwithstanding the verdict, the trial court is required to view the evidence and the inferences that reasonably can be drawn therefrom in the light most favorable to the party opposing the motions. The trial court must deny the motions when the evidence yields more than one inference or its inference is in doubt. **This Court will reverse the trial court only when there is no evidence to support the ruling below.**” *Steinke v. South Carolina Dept. of Labor, Licensing and Regulation*, 336 S.C. 373, 386, 520 S.E.2d 142 (1999) (emphasis added).

## ARGUMENT

The trial court properly granted the Respondents’ motion for judgment notwithstanding the verdict because Appellant Jones failed to pay more than his proportionate share of the Southern First Loan as required by the Arden Operating Agreement, and Respondents BIG and Boone were not required to guaranty the Southern First Loan.

**I. The trial court properly granted Respondents’ motion for judgment notwithstanding the verdict, ruling that Appellant Jones had not made actual payment on a loan to Southern First Bank entitling him to contribution from Respondents BIG and Boone.**

The main issue here is whether Jones “paid” more than his proportionate share of the Southern First Loan. This issue is governed by principles of contract. The Arden Operating Agreement specifically controls the right to contribution between the parties. Appellant improperly attempts to use equitable principles of contribution from other jurisdictions to support his case. These concepts are misplaced as the Arden Operating

Agreement controls and there is sufficient law within South Carolina to interpret the Agreement.

**A. A plain and unambiguous reading of the Arden Operating Agreement provides that a member must actually “pay” more than his share to recover from the other members.**

A plain and unambiguous reading of Section 2.3 of the Arden Operating Agreement makes it clear that a member must actually pay more than his share to recover from the other members. Because Jones has not paid more than his proportionate share of the Southern First Loan he is not entitled to contribution.

Section 2.3 of the Arden Operating agreement provides in pertinent part:

Any Class A Member who **pays** more than such Class A Member’s Guaranty Percentage of the Guaranteed Loan to the Lender shall be entitled to contribution from the other Class A Members.

(emphasis added)(R. p. 458). “When a contract is unambiguous, clear and explicit, it must be construed according to the terms the parties have used, to be taken and understood in their plain, ordinary and popular sense.” *C.A.N. Enterprises, Inc. v. S. Carolina Health & Human Services Fin. Comm’n*, 296 S.C. 373, 377, 373 S.E.2d 584, 586 (1988). A plain and unambiguous reading of Section 2.3 requires a Class A Member to actually pay more than his share to recover from the other members. Section 2.3 does not provide any other situation for recovery, it explicitly requires payment.

It is undisputed from the evidence presented at trial that Jones signed a personal promissory note, also with Southern First Bank, which was used to satisfy the Southern First Loan. (R. p. 338, l. 17 – p. 339, l. 14). This personal promissory note was then

written-off by Southern First Bank almost immediately.<sup>1</sup> It is also undisputed that Jones has not made any payments on this personal promissory note or the confession of judgment. (R. p. 215, l. 11 – p. 216, l. 9; R. p. 324, ll. 4-16; R. p. 47-48, ¶ 5; R. p. 53, ¶ 2; R. pp. 562-564).

Appellant claims that his signing of a personal promissory note which was used to satisfy the Southern First Loan on the books of Southern First Bank constitutes actual payment. However, as the Southern First Bank president, Justin Strickland, testified at trial, a promissory note is only a promise to pay, not payment. (R. p. 338, l. 17 – p. 339, l. 16).

Strickland's testimony is supported by the South Carolina Uniform Commercial Code, which provides that a promissory note is simply a promise to pay and does not mean a bank has received any sum of money or funds. S.C. Code Ann. § 36-9-102 (“Promissory note’ means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.”). By signing a personal promissory note, Jones has simply incurred a liability on behalf of Arden. Jones has not made payment as required by the plain language of the operating agreement, and has thus suffered no actual damages.

Because Plaintiff has not paid more than his Guaranty Percentage, based on his own testimony, the testimony of Strickland, and the UCC, the Plaintiff is not entitled to contribution from BIG and Boone according to the plain terms of the Arden Operating

---

<sup>1</sup> Half of Jones personal promissory note was written-off five days after the note was issued, and the remaining amount was written-off shortly thereafter. (R. p. 322, ll. 5-24; R. p. 515).

Agreement. Accordingly, this trial court properly granted BIG and Boone's motion for a judgment notwithstanding the verdict.

**B. South Carolina case law supports the plain reading of the Arden Operating Agreement.**

South Carolina case law supports the plain reading of the Arden Operating Agreement which requires a member to pay more than his proportionate share before he can recover from another member. Because Jones simply incurred a liability related to the Southern First Loan and did not make actual payment, he is not entitled to contribution from BIG or Boone.

Section 2.3 of the Arden Operating Agreement is a contract of indemnity under South Carolina law. *Laurens Emergency Med. Specialists, PA v. M.S. Bailey & Sons Bankers*, 355 S.C. 104, 109, 584 S.E.2d 375, 377 (2003) ("South Carolina courts have consistently defined indemnity as 'that form of compensation in which a first party is liable to pay a second party for loss or damage the second party incurs to a third party.'").

South Carolina courts recognize two types of indemnity contracts: (1) a contract for indemnity against liability and (2) a contract for indemnity against loss. *Piper v. Am. Fid. & Cas. Co. et al.*, 154 S.C. 106, 108 (1930). In a contract for indemnity against liability, the obligation to indemnify arises when the liability is incurred. *Id.* By contrast, in a contract for indemnity against loss, "liability does not attach until loss has been suffered, **that is when the [indemnitee] has paid the damages.**" *Id.* (emphasis added).

Whether a contract for indemnity is one for liability or for loss "depends on the intention of the parties as shown by the phraseology of the agreement contained in the policy." *Shealey v. Am. Health Ins. Corp.*, 220 S.C. 79, 82-83, 66 S.E.2d 461, 462 (1951). "In construing contracts of this character, the courts generally have held that if the

indemnity is clearly one against loss or damage, **no action will lie in favor of the insured until some loss or damage has been sustained by him, either by payment of the whole or some part of the claim.**” *Id.* (emphasis added).

Here, Section 2.3 of the Arden Operating Agreement is a contract for indemnity against loss because the Agreement specifically requires a member to “pay” more than his proportionate share. Jones has not paid more than his proportionate share of the Southern First Loan. In fact, it is clear that Jones has incurred only a liability with regard to the Southern First Loan by taking out a personal promissory note.

Jones’ personal promissory note was used to satisfy the Southern First Loan on the books of Southern First Bank. As discussed above, a promissory note is merely a promise to pay. It is not payment. While Jones incurred a liability on behalf of Arden when he signed the personal promissory note, he did not incur actual damage by way of payment.

This is the exact distinction that the South Carolina case law seeks to make. If the Arden Operating Agreement requires payment for contribution, then the mere incurrence of a liability is insufficient to satisfy the contract requirements for contribution. The Arden Operating agreement does not say, “Any Class A Member who incurs a *liability* more than his share is entitled to contribution.” The Arden Operating Agreement specifically requires payment. Accordingly, the mere incurrence of a liability by Jones is insufficient to entitle him to contribution from the BIG and Boone.

By way of contrast, this Court has held that actual payment is not necessary for indemnification when a “partnership agreement allowed indemnity for a ‘threat of loss.’” *Kuznik v. Bees Ferry Associates*, 342 S.C. 579, 607, 538 S.E.2d 15, 29 (Ct. App. 2000).

The Court in *Kuznik* reasoned that because the partnership agreement in question contained the phrase “threat of loss,” it allowed the plaintiff to recover even though he had not yet made payment. In this case, the Arden Operating Agreement has no such provision. The Arden Operating Agreement does not mention “liability” or “threat of loss.” The Arden Operating agreement allows only for contribution in one situation: payment.

Accordingly, the trial court properly granted BIG and Boone’s motion for a judgment notwithstanding the verdict because the Plaintiff has not suffered a loss or damage and thus cannot recover from BIG or Boone.

**C. Appellant misconstrues the equitable concept of contribution.**

Appellant attempts to use the equitable concept of contribution to promote his definition of payment. However, as discussed above, the rights of the parties are controlled by the Arden Operating Agreement, not common law principles of equity. *RIM Associates v. Blackwell*, 597 S.E.2d 152, 359 S.C. 170 (Ct. App. 2004) (“ . . . an action for contribution lies in equity.”)

Appellant cites to a 1925 Texas appellate case, an Illinois appellate case, a Kansas appellate case, and the American Jurisprudence, Second Edition, to support the proposition that contribution allows for satisfaction by promissory note. However, these authorities are misplaced for several reasons. The authorities cited by the Appellant deal generally with the equitable concept of contribution. They discuss the rights and remedies between co-guarantors when two or more individuals have guarantied a single loan and there is no written agreement.

However, in this case, the rights and remedies between the parties is specifically governed by contract. The Kansas case cited by the Appellant specifically states “a cause of action for contribution is based on an implied agreement not in writing.” *Kee v. Lofton*, 12 Kan. App. 2d 155, 160, 737 P.2d 55, 59 (Ct. App. Kan. 1987) (emphasis added). The language in Section 2.3 of the Arden Operating Agreement regarding contribution is clear and unambiguous. A plain and unambiguous reading of Section 2.3 of the Arden Operating Agreement makes it clear that a member must actually pay more than his share to recover from the other members.

Additionally, the facts of this case are substantially different than the authorities cited by Appellant. All the authorities cited by Plaintiff rely on the premise that all parties guarantied the loan. However, in this case it is undisputed that BIG and Boone never guarantied the Southern First Loan. Further, there is substantial South Carolina law, cited previously, which deals with issues raised in this case. Accordingly, there is no need to look to secondary sources or other jurisdictions for case law.

Appellant also argued that the trial court confused the concepts of contribution and indemnity. Appellant argues that indemnification only involves shifting the entire loss whereas contribution involves shifting a proportionate loss, thus the concept of contribution should apply and not indemnity. However, as discussed above, the concept of contribution arises when there is no written contract and thus is not applicable in this case.

Regardless, the concept of indemnification highlights the definition of payment in South Carolina and in the Arden Operating Agreement and the distinction between a contract protecting against loss versus a contract protecting against liability. Section 2.3

of the Arden Operating Agreement is a contract protecting against loss because the Agreement specifically requires a member to “pay” more than his proportionate share. Jones has not paid more than his proportionate share of the Southern First Loan. At most, Jones has incurred a liability with regard to the Southern First Loan by taking out a personal promissory note. Accordingly, he has not met the requirements of the contract and is not entitled to any payment by the Respondents, and the trial court properly granted BIG and Boone’s motion for a judgment notwithstanding the verdict.

**II. The trial court properly granted Respondents’ motion for judgment notwithstanding the verdict, ruling that Respondents BIG and Boone were not required to guaranty the loan from Southern First Bank and thus not liable for any contribution to the Appellant.**

The only reasonable inference to be drawn from the evidence presented at trial is that Respondents BIG and Boone were not required to guaranty the Southern First Loan. Appellant failed to present any evidence showing that BIG and Boone were ever required to guaranty the Southern First Loan. All of the testimony and evidence at trial demonstrates that neither BIG nor Boone was ever required by Southern First Bank, or anyone else, to guaranty the Southern First Loan.

Section 6.6(a) of the Operating Agreement specifically states:

No Member shall be liable for the debts or any other obligations or liabilities of the Company, whether arising in contract, tort or otherwise **unless a Member guarantees any debt or obligation as required under Article 2.3.**

(emphasis added)(R. p. 470).

It is undisputed that BIG and Boone never guarantied the Southern First Loan from Southern First Bank. The only argument raised by Appellant at trial and on appeal is that Section 2.3 of the Arden Operating Agreement required BIG and Boone to guaranty the Loan, and thus contribute to it.

Section 2.3 of the Operating Agreement provides in pertinent part:

**2.3 Guaranty of Loans to Company.** Each of the Class A Members (but none of the Class B Members) shall, in its individual capacity, jointly and severally guaranty any loan to the Company (“Guaranteed Loan”) for so long as any guaranty of such loan is required by the lender.

(emphasis added)(R. p. 458). Section 2.3 provides that a class A member is required only to guaranty a loan “for so long as any guaranty of such loan is required by the lender.”

The Southern First Bank President and loan officer on all of the loans, Justin Strickland, repeatedly testified at trial that neither BIG nor Boone was required to guaranty the Southern First Loan. (R. p. 319, ll. 10-18; R. p. 340, ll. 8-17). It is also undisputed that BIG and Boone never guaranteed the Southern First Loan from Southern First Bank. (R. p. 269, ll. 10-16; R. p. 317, ll. 8-14). Jones provided no documents or evidence at trial which demonstrated a requirement by Southern First Bank for BIG and Boone to guaranty the Southern First Loan. In fact, Section 4.2 of the Arden Operating Agreement specifically provides that the Southern First Loan was guaranteed by “Jones, Keisler, and Buck.” The Arden Operating Agreement specifically sets forth who is to guaranty the Southern First Loan.

Further, the course of dealing and course of performance of the members of Arden also make it clear that BIG and Boone were not responsible for the Southern First Loan. “If a dispute arises, the parties’ course of dealing can be used as evidence of how they intended to carry out the transaction.” BLACK’S LAW DICTIONARY 356 (7th ed. 1999). The Southern First Loan was entered into before BIG and Boone became Class A members of Arden. All of the documents presented at trial demonstrate that the Southern First Loan was treated differently than all other loans to Arden, and that the details of that Southern First Loan were kept from BIG and Boone.

Boone was elected managing-member of Arden. He was given the responsibility of the debts of Arden. Boone was the main point of contact for all of Arden's debts except for the Southern First Loan. Boone received all of the statements and correspondence from the other debts of Arden except for the Southern First Loan. Keisler received all of the statements and correspondence regarding the Southern First Loan, and it was only Keisler and Jones that had any dealings with Southern First Bank.

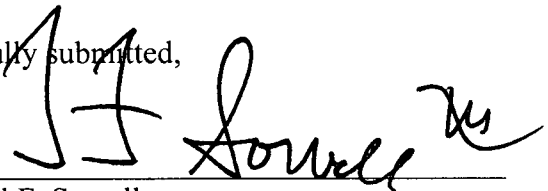
The segregation of the Southern First Loan from BIG and Boone is emphasized in the dealing of co-guarantor Buck. In 2008, Buck was released as a co-guarantor of the Southern First Loan. It is undisputed that neither BIG nor Boone was ever asked by anyone to vote on the release of Buck as a personal guarantor on the Southern First Loan. Jones and Keisler unilaterally made the decision to release Buck without input from BIG or Boone.

Section 6.6 of the Operating Agreement plainly states that a Member is not responsible for any debt of Arden "unless a Member guarantees any debt or obligation as required under Article 2.3." The only reasonable inference to be drawn from all the evidence presented at trial is that neither BIG nor Boone was ever required to guaranty the Southern First Loan and BIG and Boone were never intended to be responsible for any portion of the Southern First Loan. Accordingly, the trial court properly granted the Respondents' motion for a judgment notwithstanding the verdict.

**CONCLUSION**

Based on the foregoing, Respondents request that this Court affirm the decision of the trial court, and rule that Appellant has not paid more than his proportional share of the Southern First Loan and is not entitled to contribution from the Respondents. Further, this Court should rule that Respondents were never required to guaranty the Southern First Loan and are not responsible for any portion of the Southern First Loan.

Respectfully submitted,



---

Thornwell F. Sowell  
SC Bar No. 5197  
SOWELL GRAY STEPP & LAFFITTE, LLC  
Post Office Box 11449  
Columbia, South Carolina 29211  
(803) 929-1400

David C. Dick  
SC Bar No. 78053  
LAW OFFICE OF DAVID C. DICK  
39 Broad Street, Suite 205  
Charleston, South Carolina 29401  
(843) 641-7320

**Attorneys for Respondents**

September 5, 2014

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas  
L. Casey Manning, Circuit Court Judge

---

Civil Action No. 2011-CP-40-01980  
Appellate Case No. 2013-002673

---

Robert S. Jones,..... Appellant,

v.

Builders Investment Group, LLC,  
Brian D. Boone and Arden Homebuilders, LLC,.....Defendants,

Of Whom  
Builders Investment Group, LLC  
and Brian D. Boone are,.....Respondents.

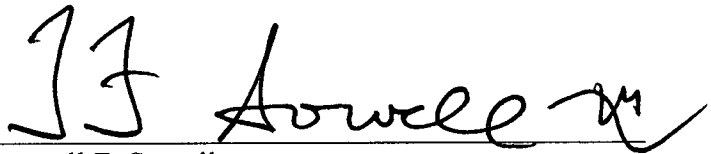
---

CERTIFICATE OF COUNSEL

---

The undersigned certifies that this final Brief of Respondents complies with Rule 211 (b), SCACR.

September 5, 2014



Thornwell F. Sowell  
SC Bar No. 5197  
SOWELL GRAY STEPP & LAFFITTE, LLC  
Post Office Box 11449  
Columbia, South Carolina 29211  
(803) 929-1400  
Attorney for Respondents

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas  
L. Casey Manning, Circuit Court Judge

Civil Action No. 2011-CP-40-01980  
Appellate Case No. 2013-002673

Robert S. Jones,.....Plaintiff/Appellant,

v.

Builders Investment Group, LLC,  
Brian D. Boone and Arden Homebuilders, LLC,.....Defendants,

Of Whom  
Builders Investment Group, LLC  
and Brian D. Boone are,.....Respondents.

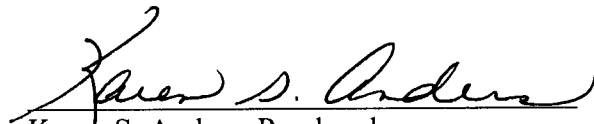
---

PROOF OF SERVICE

---

I certify that I have served the Final Brief of Respondents on the following by placing a copy in the U.S. Mail, postage pre-paid, to counsel for the Appellant on September 5, 2014, at the addresses shown below:

D. Reece Williams, III, Esquire  
Kathleen M. McDaniel, Esquire  
CALLISON TIGHE & ROBINSON, LLC  
Post Office Box 1390  
Columbia, South Carolina 29202-1390

  
Karen S. Anders, Paralegal  
SOWELL GRAY STEPP & LAFFITTE, LLC  
Counsel for Respondents

**RECEIVED**

SEP 05 2014

**SC Court of Appeals**