

IN THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

73683

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Honorable Steven H. John, Circuit Court Judge

Civil Action No.: 2011-CP-26-2722

Nichols Holding, LLC and J. Wade NicholsRespondents-Appellants

vs.

Divine Capital Group, LLC, John S. Divine, IV,
Nathan Anderson and Divine Dining Group, Inc.Appellants-Respondents

APPELLANTS-RESPONDENTS' NOTICE OF MOTION AND MOTION
TO SUPPLEMENT THE RECORD ON APPEAL

September 26, 2014

Emma Ruth Brittain
Leah Montgomery Cromer
Thomas & Brittain, P.A.
Post Office Box 1290 (zip 29578)
1314 Professional Drive (zip 29577)
Myrtle Beach, South Carolina
Telephone: 843-692-2628
Fax: 843-692-0928
E-mail: erbrittain@myrlaw.com
*Attorneys for the Appellants-Respondents
Divine Capital Group, LLC, John S. Divine,
IV, Nathan Anderson and Divine Dining
Group, Inc.*

RECEIVED

SEP 29 2014

SC Court of Appeals

Julio E. Mendoza, Jr., Esquire
Nexsen Pruet, LLC
Post Office Drawer 2426
Columbia, South Carolina 29202
rmendoza@nexsenpruet.com

Telephone: (803) 540-2026

Fax: (803) 727-1478

*Attorneys for the Appellants-Respondents
Divine Capital Group, LLC, John S. Divine,
IV, Nathan Anderson and Divine Dining
Group, Inc.*

MOTION

The Appellants-Respondents respectfully request and move the Court pursuant to Rule 212, S.C.A.C.R. to permit a Supplement to the Record on Appeal to include the following:

1. Order Compelling Settlement dated January 6, 2014 (page 6 of the Order was inadvertently omitted while copying and preparing the documents for the Record on Appeal);

2. The Memorandum of Law in Support of Motion of John S. Divine, IV to Enforce Settlement Agreement filed with the lower court, supporting Appellants-Respondents' Argument III of its Initial Reply Brief, dated August 7, 2014. It is necessary to supplement the record with this document because it directly refutes Respondents-Appellants' assertion that Appellants-Respondents "offered no argument about the amount of trade debt owed" before the lower court, which argument was raised for the first time in its Initial Respondent's Brief. (Respondents-Appellants' Respondents' Brief, Argument 5). Because Respondents-Appellants did not raise this argument at trial or otherwise until it served its Initial Respondents' Brief, received by Appellants-Respondents on July 28, 2014, Appellants-Respondents were not aware this issue was in dispute and therefore did not include this document in the Designation of Matter it filed on June 26, 2014. Appellants-Respondents further note that inclusion of this document is necessary for a full and fair consideration of their position in response to the issues raised by the Respondents-Appellants in their Respondents' Brief and will serve the interest of justice in this matter.

September 26, 2014

Respectfully submitted,



Emma Ruth Brittain

Leah Montgomery Cromer

Thomas & Brittain, P.A.

Post Office Box 1290 (zip 29578)

1314 Professional Drive (zip 29577)

Myrtle Beach, South Carolina

Telephone: 843-692-2628

Fax: 843-692-0928

E-mail: erbrittain@myrlaw.com

*Attorneys for the Appellants-Respondents
Divine Capital Group, LLC, John S.
Divine, IV, Nathan Anderson and Divine
Dining Group, Inc.*

Julio E. Mendoza, Jr., Esquire

Nexsen Pruet, LLC

Post Office Drawer 2426

Columbia, South Carolina 29202

rmendoza@nexsenpruet.com

Telephone: (803) 540-2026

Fax: (803) 727-1478

*Attorneys for the Appellants-Respondents
Divine Capital Group, LLC, John S.
Divine, IV, Nathan Anderson and Divine
Dining Group, Inc.*

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PROOF OF SERVICE

I certify that I have served the Appellants-Respondents Notice of Motion and Motion to Supplement the Record on Appeal by depositing a copy of it in the United States mail, postage prepaid, on September 26, 2014, addressed to the following:

Julio E. Mendoza, Jr., Esquire
Nexsen Pruet, LLC
Post Office Drawer 2426
Columbia, South Carolina 29202

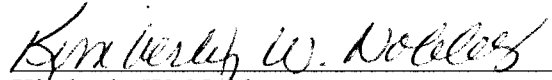
Gene M. Connell, Jr., Esquire
Kelaher, Connell & Connor, P.C.
Post Office Drawer 14547
Surfside Beach, South Carolina, 29587

Frederick Miles Adler, Esquire
Post Office Box 4743

Pawleys Island, South Carolina 29585

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

September 26, 2014



Kimberly W. Nobles

Assistant to Emma Ruth Brittain, Esquire
Thomas & Brittain, P.A.

Post Office Box 1290 (zip 29578)

1314 Professional Drive (zip 29577)

Myrtle Beach, South Carolina

Telephone: 843-692-2628

Fax: 843-692-0928

THOMAS & BRITTAIN, P.A.
ATTORNEYS AT LAW
1314 PROFESSIONAL DRIVE
MYRTLE BEACH, SOUTH CAROLINA 29577

EMMA RUTH BRITTAIN*
ERBrittain@MYRlaw.com

*CERTIFIED EMPLOYMENT
& LABOR LAW SPECIALIST

TELEPHONE (843) 692-2628
FACSIMILE (843) 692-0928

MAILING ADDRESS:
POST OFFICE BOX 1290
MYRTLE BEACH, SC 29578

September 26, 2014

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1205 Pendleton Street
Columbia, South Carolina 29201

Re: Nichols Holding, LLC and J. Wade Nichols v. Divine Capital Group, LLC, John S. Divine, IV; Nathan Anderson; and Divine Dining Group, Inc.
Appellate Case No.: 2014-000662
Civil Action No.: 2011-CP-26-2722

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of the Appellants-Respondents' Notice of Motion and Motion to Supplement the Record on Appeal to include the following documents:

- a. Order Compelling Settlement dated January 6, 2014 (page 6 of the Order was inadvertently omitted while copying and preparing the documents for the Record on Appeal); and
- b. Memorandum of Law in Support of Motion of John S. Divine, IV to Enforce Settlement Agreement

Also enclosed is our check in the amount of \$25.00 for the filing fee. Please return a stamped copy of the Motion to our office in the enclosed self-addressed envelope.

Please find enclosed for filing the original and fifteen copies of the Supplemental Record on Appeal in this case. Please return a stamped copy to our office in the enclosed self-addressed stamped envelope.

Sincerely yours,

THOMAS & BRITTAIN, P.A.



Emma Ruth Brittain

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
September 26, 2014
Page Two

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Enclosures

cc: Julio E. Mendoza, Jr., Esquire

Gene M. Connell, Jr., Esquire

F. Miles Adler, Esquire