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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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DEC 05 2014

SC Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
William H. Seals, Jr., Circuit Court Judge

Circuit Court Case No. 2009-CP-26-5743

Hotel and Motel Holdings, LLC,

Respondent,

v.

BJC Enterprises, LLC, Wendy J. Bellamy, Americana, Inc.,
a/k/a Americana Motel of Myrtle Beach, Inc., Mozingo & Wallace
Architects, LLC, Kersi S. Shroff, and Shroff Management, Inc.,

Defendants.

BJC Enterprises, LLC, Wendy J. Bellamy, Americana, Inc.,
a/k/a Americana Motel of Myrtle Beach, Inc.,

Appellants,

v.

First Palmetto Savings Bank, F.S.B., Jack Jones,
Donald D. Godwin, and Bhupendra Patel,

Respondents.

SECOND SUPPLEMENTAL RECORD ON APPEAL

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Holding, LLC, Jack Jones, and Donald D.
Godwin

INDEX TO SECOND SUPPLEMENTAL RECORD ON APPEAL

Orders

Order Granting First Palmetto's Motion to Strike or Dismiss dated July 25, 2011.....Second Supp. R. 1

Motions

First Palmetto's Motion to Strike or Dismiss Third-Party Claims dated June 7, 2011.....Second Supp. R. 10

PAID

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS

Hotel and Motel Holdings, LLC,)
 Plaintiff)

CASE NO.
2009-CP-26-5743

v.)

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

BJC Enterprises, LLC, Wendy J. Bellamy,)
Americana, Inc., a/k/a Americana Motel of Myrtle)
Beach, Inc., Mozingo & Wallace Architects, LLC,)
Kersi S. Shroff, and Shroff Management, Inc.,)
Defendants)
 Defendants)

BJC Enterprises, LLC, Wendy J. Bellamy, and)
Americana, Inc., a/k/a Americana Motel of Myrtle)
Beach, Inc.)
 Third Party Plaintiffs)

v.)

First Palmetto Savings Bank, F.S.B., Jack Jones,)
Donald D. Godwin, and Bhupendra Patel,)
 Third Party Defendants)

FILED
HARRIS COUNTY
2011 JUN -8 AM 11:59
MELANIE HUGGINS-WARD
CLERK OF COURT

<p><i>Attorney for Defendants/Third Party Plaintiffs BJC Enterprises, LLC, Wendy J. Bellamy, and Americana, Inc. a/k/a American Motel of Myrtle Beach, Inc.:</i> Kathryn M. Cook, Esq. Cook & Roy, LLC P.O. Box 4086 North Myrtle Beach, SC 29597</p> <p><i>Attorneys for the Plaintiff Hotel and Motel Holdings, LLC and Third-Party Defendants Donald Godwin and Jack Jones:</i> R. Wayne Byrd, Esq. Audra M. Byrd, Esq. Turner Padgett Graham & Laney, P.A. 2411 North Oak Street, Suite 301 Founders Centre Myrtle Beach, SC 29577 (843) 213-5500</p>	<p><i>Third Party Defendant First Palmetto Savings Bank, F.S.B.'s Attorneys:</i> William H. Short, Jr., Bar No. 5091 Lindsey C. Livingston, Bar No. 72546 Haynsworth Sinkler Boyd, P.A. Post Office Box 11889 Columbia, SC 29211-1889 phone: (803) 779-3080 fax: (803) 765-1243 e-mail: bshort@hsblawfirm.com llivingston@hsblawfirm.com</p> <p><i>Attorney for Defendant Mozingo & Wallace Architects, LLC:</i> Scott B. Umstead, Esq. 4226 Mayfair Street, Suite 100 Myrtle Beach, SC 29578 (843) 913-4610</p> <p><i>Attorney for Bhupendra Patel:</i> William W. DesChamps, Jr., Esq. Deschamps Law Firm DesChamps Law Firm P.O. Box 2402 Myrtle Beach, SC 29578 (843) 448-2391</p>
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SCCA/233 (11-03)

	<i>Attorneys for Defendants Kersi S. Schroff and Shroff Management, Inc:</i> Susan P. MacDonald, Esq. Nelson Mullins Riley & Scarborough, LLP Nelson Mullins Riley & Scarborough, LLP P.O. Box 3939 Myrtle Beach, SC 29578 (843) 946-5654
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: Motion to Strike and Dismiss and Memorandum of Law in Support Estimated Time Needed: 20 min Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
<u>WASHOR</u> Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	<u>6-7-11</u> Date submitted
SECTION III: Motion Fee	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$25.00 <input type="checkbox"/> EXEMPT: <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support (check reason) <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> 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: <input type="checkbox"/> Other:	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	_____ JUDGE CODE: _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____	
<input type="checkbox"/> MOTION FEE COLLECTED: _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: _____	

SCCA/233 (11-03)

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

Case No. 2009-CP-26-5743

Hotel and Motel Holdings, LLC,

Plaintiff,

vs.

BJC Enterprises, LLC, Wendy J. Bellamy, Americana, Inc., a/k/a Americana Motel of Myrtle Beach, Inc., Mozingo & Wallace Architects, LLC, Kersi S. Shroff, and Shroff Management, Inc.,

Defendants,

**FIRST PALMETTO SAVINGS BANK, F.S.B.
MOTION TO STRIKE AND DISMISS AND
MEMORANDUM OF LAW IN SUPPORT**

BJC Enterprises, LLC, Wendy J. Bellamy, and Americana, Inc., a/k/a Americana Motel of Myrtle Beach, Inc.,

Third Party Plaintiffs,

vs.

First Palmetto Savings Bank, F.S.B., Jack Jones, Donald D. Godwin, and Bhupendra Patel,

Third Party Defendants.

FILED
2011 JUN -8 AM 11:59
CLERK OF COURT
HORRY COUNTY

Third-Party Defendant First Palmetto Saving Bank, F.S.B. ("First Palmetto"), through its undersigned counsel, hereby moves the Court to strike and dismiss the causes of action of Conversion, Interference with a Contractual Relationship, Intentional Infliction of Emotional Distress, Fraud, Breach of Fiduciary Duty, and Violation of the South Carolina Unfair Trade Practices Act asserted against it in the Amended Answer, Counterclaims, and Third-Party Complaint (the "Third Party Complaint") of BJC Enterprises, LLC, Wendy J. Bellamy, and

Americana, Inc., a/k/a Americana Motel of Myrtle Beach, Inc (collectively, the "Third Party Plaintiffs"), for the reasons set forth herein.

BACKGROUND

This case arises out of a foreclosure action brought originally by First Palmetto against Third Party Defendants. After foreclosure proceedings were commenced, on June 30, 2009, First Palmetto sold the loan documents evidencing the Loan to Hotel and Motel Holdings, LLC ("H & M"). As H & M became the owner of the loan documents, on September 11, 2009, H & M was substituted as plaintiff in this foreclosure action. In response to the foreclosure complaint, Third-Party Plaintiffs answered the complaint, and later filed their Third-Party Complaint.

The Third-Party Complaint alleged the following causes of action against First Palmetto: breach of contract, fraud, breach of contract accompanied by a fraudulent act, civil conspiracy, conversion, intentional infliction of emotional distress/outrage, and violation of the South Carolina Unfair Trade Practices Act. By Order entered October 15, 2010 (the "Order"), the causes of action for conversion, interference with contractual relationship, intentional infliction of emotional distress, breach of fiduciary duty, fraud, and violation of the South Carolina Unfair Trade Practices Act were stricken as improper third-party claims under Rule 14, SCRPC. A copy of the Order is attached hereto as Exhibit A.

The original motion to strike all third-party claims was filed on behalf of Third-Party Defendants Jones and Godwin. At the time of filing, it was unclear which claims were asserted against which parties. As a result, the Third Party Defendants Jones and Godwin moved to strike all of the claims. The Honorable Steven H. John granted in part and denied in part the motion to strike. In his ruling, Judge John made specific findings regarding each third-party claim and specifically held that the causes of action for conversion, interference with contractual

relationship, intentional infliction of emotional distress, breach of fiduciary duty, fraud, and violation of the South Carolina Unfair Trade Practices Act were improper under Rule 14(a), SCRCF, because they are not dependent upon the outcome of H & M's claim against the Third-Party Plaintiffs. While First Palmetto did not file a separate motion to strike these claims, Rule 14 (a) provides that "[a]ny party may move to strike the third-party claim." Rule 14(a), SCRCF (emphasis added). Because the Court in its Order struck the third-party claims as improper, First Palmetto believes the only remaining third-party claims asserted against it (and any of the third party defendants) were breach of contract, breach of contract accompanied by fraud, and civil conspiracy. Moreover, if the third party claims were improper as to one third party defendant, they would be improper third party claims as to all defendants as the Court has found such third-party claims "are independent causes of action, not impacted by the outcome of the foreclosure matter." Order, Ex. A at p 7.

Third Party Plaintiffs have asserted that the Order does not apply to First Palmetto as it did not file the original motion to strike, and thus all third party claims are still pending against First Palmetto. First Palmetto asserts the Order struck the third party claims as to all Third Party Defendants. However, based on Third Party Plaintiffs assertions and out of an abundance of caution, First Palmetto is filing the instant motion to strike the third party claims for fraud, breach of contract accompanied by a fraudulent act, civil conspiracy, conversion, intentional infliction of emotional distress/outrage, and violation of the South Carolina Unfair Trade Practices Act (collectively, the "Third Party Claims") to the extent such Third Party Claims were not included in the Order.¹

¹ The remaining claims asserted against First Palmetto for breach of contact, breach of contract accompanied by fraud, and civil conspiracy have been disposed of by separate Order executed on June 1, 2011.

ARGUMENT

I. The Third Party Claims are Improper Under the South Carolina Rules of Civil Procedure and Should be Stricken.

Under Rule 14, SCRCPP, a defendant “may cause a summons and complaint to be served upon a person not a party to the action who is or may be liable to him for all or part of the plaintiff’s claim against him.” Rule 14(a), SCRCPP. Thus, Rule 14 permits a defendant to bring into the action, or implead, a non-party who may be ultimately responsible for any judgment rendered against the defendant. *First Gen. Servs. Of Charleston, Inc. v. Miller*, 314 S.C. 439, 445 S.E.2d 446 (1994). “Under Rule 14, the third-party plaintiff must have a substantive claim against the third-party defendant *founded upon derivative liability.*” *Id.*, 314 S.C. at 442, 445 S.E.2d at 447 (emphasis added); *see also Gay v. Carolina Buggy Tours*, 2008 U.S. Dist. LEXIS 78708 (D.S.C. Aug. 22, 2008)² (finding that proposed third-party claim was improper because it was “in no way dependent on Carolina Buggy’s claims against Gay”). “Rule 14 may be used only when the substantive law permits the defendant to shift some or all of his liability to the impleaded party.” *Gathings v. Robertson Brokerage Co.*, 295 S.C. 112, 117, 367 S.E.2d 423, 426 (Ct. App. 1988). A third-party complaint that fails to assert an indemnity-type claim should be dismissed as a matter of law. *See Laughlin v. Dell Fin. Servs. L.P.*, 465 F. Supp. 2d 563, 567 (D.S.C. 2006) (denying motion to amend answer to assert third-party claims because third-party complaint did not state any legal or factual grounds that could be construed to be seeking indemnity).

In this case, the Third Party Claims against First Palmetto are not derivative in nature. In determining whether Third Party Plaintiffs state a viable third party claims, the Court must

² A copy of this case is attached hereto as Exhibit B.

determine whether Defendants have a cause of action against First Palmetto which would impose liability upon First Palmetto for all or part of H & M's claim for foreclosure. Third Party Plaintiffs have no such claim. Moreover, this Court has previously held that the Third Party Claims are not dependent upon the outcome of H & M's claim against the Third-Party Plaintiffs. *See Order, Exhibit A.* Indeed, if the claims asserted were meritorious, which is categorically denied, First Palmetto would be directly liable to both H & M and Third Party Plaintiffs.

Without asserting legal or factual grounds that could be construed to be seeking indemnity, the Third-Party Complaint fails to meet the requirements of S.C.R.C.P. 14(a). *Gay v. Carolina Buggy Tours*, 2008 U.S. Dist. LEXIS 78708 (D.S.C. Aug. 22, 2008); *Gathings v. Robertson Brokerage Co.*, 295 S.C. 112, 117, 367 S.E.2d 423, 426 (Ct. App. 1988); *Laughlin v. Dell Fin. Servs. L.P.*, 465 F. Supp. 2d 563, 567 (D.S.C. 2006). Based upon the foregoing and pursuant to Rules 12(b)(6), 12(f) and 14(a), SCRCPP, the Third Party Claims as to First Palmetto should be stricken as a matter of law. The claims asserted against First Palmetto are not derivative in nature, and therefore, the Third Party Claims are procedurally improper and impermissible under the South Carolina Rules of Civil Procedure.

HAYNSWORTH SINKLER BOYD, P.A.

By:



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June 7, 2011

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

Case No. 2009-CP-26-5743

Hotel and Motel Holdings, LLC,

Plaintiff,

vs.

BJC Enterprises, LLC, Wendy J. Bellamy,
Americana, Inc., a/k/a Americana Motel of
Myrtle Beach, Inc., Mozingo & Wallace
Architects, LLC, Kersi S. Shroff, and Shroff
Management, Inc.,

Defendants,

BJC Enterprises, LLC, Wendy J. Bellamy,
and Americana, Inc., a/k/a Americana Motel
of Myrtle Beach, Inc.,

Third Party Plaintiffs,

vs.

First Palmetto Savings Bank, F.S.B., Jack
Jones, Donald D. Godwin, and Bhupendra
Patel,

Third Party Defendants.

FILED
HORRY COUNTY
2011 JUN - 8 AM 11: 59
MELANIE HUGGINS-WARD
CLERK OF COURT

CERTIFICATE OF SERVICE

I, Suzanne Harrelson, the undersigned employee of Haynsworth Sinkler Boyd, P.A., do hereby certify that I have caused the foregoing to be served via U.S. mail, postage prepaid, and e-mail, to all parties of record at the addresses shown below.

1. Motion and Order Information Form and Cover Sheet; and
2. First Palmetto Savings Bank, F.S.B.'s Motion to Strike and Dismiss and Memorandum of Law in Support.

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HAYNSWORTH SINKLER BOYD, P.A.

By: _____


Suzanne Harrelson
Legal Secretary

Date: June 7, 2011

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

Case No. 2009-CP-26-5743

Hotel and Motel Holdings, LLC,

Plaintiff,

vs.

BJC Enterprises, LLC, Wendy J.
Bellamy, Americana, Inc., a/k/a
Americana Motel of Myrtle Beach, Inc.,
Mozingo & Wallace Architects, LLC,
Kersi S. Shroff, and Shroff Management,
Inc.,

Defendants,

BJC Enterprises, LLC , Wendy J.
Bellamy, and Americana, Inc., a/k/a
Americana Motel of Myrtle Beach, Inc.,

Third Party Plaintiffs,

vs.

First Palmetto Savings Bank, F.S.B., Jack
Jones, Donald D. Godwin, and Bhupendra
Patel,

Third Party Defendants.

HORRY COUNTY
11 JUL 28 AM 9:43
HELAH HARRIS-WARD
CLERK OF COURT

**ORDER GRANTING FIRST PALMETTO SAVINGS BANK, F.S.B.'S
MOTION TO STRIKE AND DISMISS**

This matter comes before the Court on the motion Third-Party Defendant First Palmetto Savings Bank, F.S.B. ("First Palmetto") to strike and dismiss the causes of action of Conversion, Interference with a Contractual Relationship, Intentional Infliction of Emotional Distress, Fraud, Breach of Fiduciary Duty, and Violation of the South Carolina Unfair Trade Practices Act asserted against it in the Amended Answer,

Counterclaims, and Third-Party Complaint (the "Third Party Complaint") of BJC Enterprises, LLC, Wendy J. Bellamy, and Americana, Inc., a/k/a Americana Motel of Myrtle Beach, Inc (collectively, the "Third Party Plaintiffs"). No hearing was held on the motion. After considering the arguments set forth in the memoranda filed in support and in opposition to the motion, the Court finds that the First Palmetto's motion should be granted.

This case arises out of a foreclosure action brought originally by First Palmetto against Third Party Plaintiffs. After foreclosure proceedings were commenced, on June 30, 2009, First Palmetto sold the loan documents evidencing the Loan to Hotel and Motel Holdings, LLC ("H & M"). As H & M became the owner of the loan documents, on September 11, 2009, H & M was substituted as plaintiff in this foreclosure action. In response to the foreclosure complaint, Third-Party Plaintiffs answered the complaint, and later filed their Third-Party Complaint.

The Third-Party Complaint alleged the following causes of action against First Palmetto: breach of contract, fraud, breach of contract accompanied by a fraudulent act, civil conspiracy, conversion, intentional infliction of emotional distress/outrage, and violation of the South Carolina Unfair Trade Practices Act. On or about July 16, 2010, Third Party Defendants Jones and Godwin originally filed a motion to strike and dismiss all third party claims because it was unclear at the time which claims were asserted against which parties. By Order entered October 15, 2010 (the "Order"), The Honorable Steven H. John granted in part and denied in part the motion to strike. Judge John made specific findings regarding each third-party claim and specifically held that the causes of action for conversion, interference with contractual relationship, intentional infliction of

emotional distress, breach of fiduciary duty, fraud, and violation of the South Carolina Unfair Trade Practices Act were improper under Rule 14(a), SCRPC, because they are not dependent upon the outcome of H & M's claim against the Third-Party Plaintiffs.

While First Palmetto did not file a separate motion to strike these claims, Rule 14 (a) provides that “[a]ny party may move to strike the third-party claim.” Rule 14(a), SCRPC (emphasis added). Because the Court in its Order struck the third-party claims as improper, First Palmetto asserted that the only remaining third-party claims asserted against it (and any of the third party defendants) were breach of contract, breach of contract accompanied by fraud, and civil conspiracy. First Palmetto further argued that if the third party claims were improper as to one third party defendant, they would be improper third party claims as to all defendants as the Court has found such third-party claims “are independent causes of action, not impacted by the outcome of the foreclosure matter.” However, Third Party Plaintiffs have asserted that the Order does not apply to First Palmetto as it did not file the original motion to strike, and thus all third party claims are still pending against First Palmetto. Out of an abundance of caution, First Palmetto filed a motion to strike and dismiss the third party claims for fraud, breach of contract accompanied by a fraudulent act, civil conspiracy, conversion, intentional infliction of emotional distress/outrage, and violation of the South Carolina Unfair Trade Practices Act (collectively, the “Third Party Claims”) to the extent such Third Party Claims were not included in the Order.

The Court finds that the Third Party Claims are improper under the South Carolina Rules of Civil Procedure, and should be stricken and dismissed.

Under Rule 14, SCRPC, a defendant “may cause a summons and complaint to be

served upon a person not a party to the action who is or may be liable to him for all or part of the plaintiff's claim against him." Rule 14(a), SCRPC. Thus, Rule 14 permits a defendant to bring into the action, or implead, a non-party who may be ultimately responsible for any judgment rendered against the defendant. *First Gen. Servs. Of Charleston, Inc. v. Miller*, 314 S.C. 439, 445 S.E.2d 446 (1994). "Under Rule 14, the third-party plaintiff must have a substantive claim against the third-party defendant *founded upon derivative liability.*" *Id.*, 314 S.C. at 442, 445 S.E.2d at 447 (emphasis added); *see also Gay v. Carolina Buggy Tours*, 2008 U.S. Dist. LEXIS 78708 (D.S.C. Aug. 22, 2008) (finding that proposed third-party claim was improper because it was "in no way dependent on Carolina Buggy's claims against Gay"). "Rule 14 may be used only when the substantive law permits the defendant to shift some or all of his liability to the impleaded party." *Gathings v. Robertson Brokerage Co.*, 295 S.C. 112, 117, 367 S.E.2d 423, 426 (Ct. App. 1988). A third-party complaint that fails to assert an indemnity-type claim should be dismissed as a matter of law. *See Laughlin v. Dell Fin. Servs. L.P.*, 465 F. Supp. 2d 563, 567 (D.S.C. 2006) (denying motion to amend answer to assert third-party claims because third-party complaint did not state any legal or factual grounds that could be construed to be seeking indemnity).

The Court finds that the Third Party Claims against First Palmetto are not derivative in nature. Specifically, in order for the Third Party Plaintiffs' claims to be valid against First Palmetto, they must have a cause of action against First Palmetto which would impose liability upon First Palmetto for all or part of H & M's claim for foreclosure, but Third Party Plaintiffs have no such claim. Moreover, this Court has previously held that the Third Party Claims are not dependent upon the outcome of H &


M's claim against the Third-Party Plaintiffs. Indeed, if the claims asserted were meritorious, First Palmetto would be directly liable to both H & M and Third Party Plaintiffs.

Without asserting legal or factual grounds that could be construed to be seeking indemnity, the Third-Party Complaint fails to meet the requirements of S.C.R.C.P. 14(a). *Gay v. Carolina Buggy Tours*, 2008 U.S. Dist. LEXIS 78708 (D.S.C. Aug. 22, 2008); *Gathings v. Robertson Brokerage Co.*, 295 S.C. 112, 117, 367 S.E.2d 423, 426 (Ct. App. 1988); *Laughlin v. Dell Fin. Servs. L.P.*, 465 F. Supp. 2d 563, 567 (D.S.C. 2006).

Based upon the foregoing and pursuant to Rules 12(b)(6), 12(f) and 14(a), SCRPC, the Court finds that the Third Party Claims as to First Palmetto should be stricken as a matter of law.

IT IS THEREFORE ORDERED that First Palmetto's motion to strike and dismiss the Third Party Claims is GRANTED.

AND IT IS SO ORDERED.



The Honorable William H. Seals, Jr.

July 25, 2011

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
William H. Seals, Jr., Circuit Court Judge

Circuit Court Case No. 2009-CP-26-5743

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DEC 05 2014

SC Court of Appeals

Hotel and Motel Holdings, LLC,

Respondent,

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BJC Enterprises, LLC, Wendy J. Bellamy, Americana, Inc.,
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Architects, LLC, Kersi S. Shroff, and Shroff Management, Inc.,

Defendants.

BJC Enterprises, LLC, Wendy J. Bellamy, Americana, Inc.,
a/k/a Americana Motel of Myrtle Beach, Inc.,

Appellants,

v.

First Palmetto Savings Bank, F.S.B., Jack Jones,
Donald D. Godwin, and Bhupendra Patel,

Respondents.

PROOF OF SERVICE

I certify I have served the *Second Supplemental Record on Appeal*, by depositing a copy of it on December 5, 2014, to all counsel of record at the following addresses:

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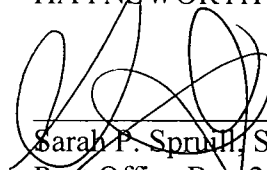
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December 5, 2014

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

RECEIVED

DEC 05 2014

SC Court of Appeals

RE: Hotel and Motel Holdings, LLC v. BJC Enterprises, LLC, et al.
Civil Action No. 2009-CP-26-5743
Appellate Tracking No. 2011-198106
HSB File No. 30478.0008

Dear Ms. Kitchings:


Enclosed for filing are an original and seventeen (17) copies of the *Second Supplemental Record on Appeal* submitted by Respondent First Palmetto Savings Bank, F.S.B. ("First Palmetto") in connection with the above-captioned matter together with a Certificate of Service. This Supplemental Record on Appeal contains only two items: First Palmetto's Motion to Strike or Dismiss Third-Party Claims dated June 7, 2011; and Order Granting First Palmetto's Motion to Strike or Dismiss dated July 25, 2011. Each of these documents were originally designated by First Palmetto to be included in the Record on Appeal but were not so included. Please be kind enough to return a clocked copy of these documents via my courier.

By copy of this letter, I am serving counsel of record with the Supplemental Record on Appeal.

Thank you for your assistance in this matter.

Sincerely yours,

HAYNSWORTH SINKLER BOYD, P.A.



Sarah P. Spruill

SPS/jmb
Enclosures

cc: Kathryn M. Cook, Esq.
R. Wayne Byrd, Esq.
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