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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Case No. 2014-CP-42-01622

Spartanburg Buddhist Center of South Carolina, Inc., Respondent,

v.

Ron Ork and Luke Dong, Appellants.

MOTION TO EXPEDITE APPEAL

Pursuant to Rule 240 and Rule 263(b) of the South Carolina Appellate Court Rules, Ron Ork and Luke Dong (the "Appellants") move to expedite this Appeal and commence an expedited briefing schedule that would resolve this Appeal prior to April 1, 2015. The grounds for this Motion are as follows:

1. The Appellants filed a Notice of Appeal on February 18, 2014, appealing (1) the Order dated January 7, 2015 holding Appellant Ron Ork in civil contempt; (2) the Order denying the Appellants' SCRCR Rules 59 and 60 Motion, and SCRCR Rule 62 Motion for Stay of Execution pending appeal, which the Appellants have not received; (3) the Order Granting Temporary Injunction dated May 16, 2014 and the Order dated July 25, 2014 denying the Appellants' SCRCR Rules 59 and 60 Motion; and (3) the Order Granting Temporary Injunction dated April 21, 2014.

2. The underlying lawsuit was brought in the name of the Respondent on April 21, 2014 by a group of people who claim to have been officers and/or directors of the Respondent prior to April 20, 2014 (“Past Possible Officers and Directors” or “PPODs”). The PPODs initiated the underlying lawsuit in an attempt to nullify an election that took place on April 20, 2014 because the Respondent’s members who were present for the election unanimously voted for a board of directors and president that did not include any PPODs.

3. The lower court issued the Order Granting Temporary Injunction dated April 21, 2014 without providing notice to the Appellants in violation of South Carolina Rules of Civil Procedure (“SCRCP”) Rule 65(a) and without a bond in violation of SCRCP Rule 65(c), in addition to other deficiencies.

4. The lower court issued the Order Granting Temporary Injunction dated May 16, 2014 without a bond in violation of SCRCP Rule 65(c) in addition to other deficiencies.

5. The lower court issued an Order dated January 7, 2015 that sentenced the Appellant Ron Ork (the “Head Monk”) to five months in the South Carolina Department of Corrections unless he pays \$59,765.30 into the Respondent’s bank account within ninety (90) days of the date of the Order and ordered him to pay \$3,500.00 for the Respondent’s attorneys’ fees (the “Contempt Order”). The court held that the Head Monk allegedly violated the two Orders Granting Temporary Injunction by issuing three (3) checks to Harvest Group, LLC, the first check on April 29, 2014, the second on May 7, 2014, and the third on May 9, 2014.

6. The Respondent entered into a contract with Harvest Group, LLC on September 26, 2013 to build a new temple/education center for the Respondent. Two of the PPODs and the Head Monk participated in a ground-breaking ceremony for the new building on or about October 20, 2013. The Respondent held a fundraiser for the new temple/education center on or about the end of 2013. The Head Monk issued eight (8) checks beginning on or about February 3, 2014 until April 18, 2014, prior to the first Temporary Injunction dated April 21, 2014, for the construction and was merely maintaining the status quo and preventing a mechanic's lien from being filed against the Respondent by issuing the checks.

7. The Head Monk fully complied with the first Order Granting Temporary Injunction dated April 21, 2014 because he "deposit[ed] any funds withdrawn from Plaintiff's bank account on or after April 18, 2014 back into Plaintiff's bank account within twenty-four (24) hours of th[e] Order."

8. The Head Monk could not have violated the second Order Granting Temporary Injunction dated May 16, 2014 because he issued the three (3) checks to the construction company prior to the lower court's entry of the second Order.

9. The lower court erred by awarding the Respondent \$3,500.00 in attorney's fees because the Plaintiff did not request attorney's fees at the Rule to Show Cause hearing and did not offer any evidence of "the costs [the Respondent] incurred in enforcing the court's prior order." *Poston v. Poston*, 502 S.E.2d 86, 331 S.C. 106, 114 (S.C., 1998).

10. The Head Monk has no income, survives on the donations of others, owns no property, and lives on property owned by the Respondent. The checks he issued out

of the Respondent's bank account paid for the Respondent's bills. The Head Monk did not retain any funds. The Head Monk does not have the ability to purge himself of contempt or pay the Respondent's attorney's fees. The Head Monk could be held in contempt of the Contempt Order if he does not pay the \$3,500.00 in attorney's fees within forty-five (45) days of the Contempt Order, which is on or before February 21, 2015. "The courts have unambiguously held that 'coercive imprisonment as applied to civil contempt depends upon the ability of the contemnor to comply with the court's order.'" *Phillips v. Phillips*, 341 S.E.2d 132, 288 S.C. 185 (S.C., 1986).

11. The two Orders Granting Temporary Injunction, the Contempt Order, and the underlying litigation are severely harming the Respondent and its members are leaving. The resolution of this appeal and the underlying lawsuit are necessary to the Respondent's survival. Those who attend the Respondent's services are unwilling to donate funds to the Respondent because of the Respondent's governance issues and the possibility that the PPODs will have control over the Respondent's funds.

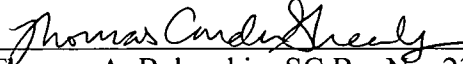
12. A major issue in the underlying lawsuit case will become moot after April 2015 because the PPODs only argue that their terms last until April 2015. The Appellants' position in that the PPODs' terms, if they ever existed, ended when the members voted for a board of directors and president on April 21, 2104.

13. A expedited resolution of this appeal is necessary because the Respondent's articles of organization say that the Respondent will not have members, but the Respondent's bylaws vest the members with the right to vote for a board of directors and a president. The bylaws state that elections are to be held during the month of April.

The prevailing party in this litigation will need to address the Respondent's inconsistent bylaws and articles of organization.

14. The second Order Granting Temporary Injunction orders that, "no corporate action may be taken on behalf of [Respondent] during the pendency of this litigation, except that to which the parties agree," and "bank account funds may only be used to pay obligations of Plaintiff on which the parties agree." The sooner this litigation is resolved, the sooner the Respondent will be able to function.

Respectfully Submitted,

  
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T. Camden Shealy, SC Bar No: 101447  
A BUSINESS LAW FIRM, LLC  
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Spartanburg, South Carolina 29304  
(864) 699-9801  
Attorneys for Appellants

February 18, 2015

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In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Case No. 2014-CP-42-01622

Spartanburg Buddhist Center of South Carolina, Inc.,

Respondent,

v.

Ron Ork and Luke Dong,

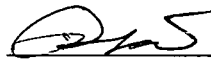
Appellants.

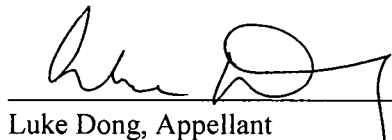
VERIFICATION OF MOTION TO EXPEDITE APPEAL

1. We, the undersigned Appellants, are over 18 years of age, have personal knowledge of the facts set forth in the Motion to Expedite the Appeal, are duly authorized to make the Motion and this verification of the Motion to Expedite the Appeal, and are competent to testify to the matters therein contained.

2. We, the undersigned Appellants, have read or have had read and translated to us the contents of the Motion to Expedite the Appeal, know the same to be true and correct of our own knowledge, except those matters alleged on information and belief, and as to them, we believe them to be true.

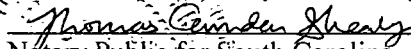
Affiants sayeth nothing further.

  
\_\_\_\_\_  
Ron Ork, Appellant

  
\_\_\_\_\_  
Luke Dong, Appellant

SWORN TO AND SUBSCRIBED

Before me this 17<sup>th</sup> day of February 2015,

 (SEAL)  
Notary Public for South Carolina

My Commission expires 11-18-2023

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PROOF OF SERVICE

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I, the undersigned attorney for the Appellants do hereby certify that I have served the Clerk of Court for the South Carolina Court of Appeals and all counsel in this action with a copy of the Notice of Appeal, the Petition for Writ of Supersedeas with Request for Expedited Decision, Motion to Expedite Appeal, and Proof of Service by mailing a copy of the same by United States Mail, postage prepaid, to the following addresses:

- a. Jenny Abbott Kitchings, Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211
- b. Scott F. Talley  
Talley Law Firm  
2500 Winchester Place, Suite 100  
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February 18, 2015