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SC Court of Appeals

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM EDGEFIELD COUNTY
Court of Common Pleas

Kathy Ouzts Rushton, Special Referee

Case No. 2014-001742

Bernard Loyer, Jr. and Sherry Loyer, Respondents.

v.

S17 Owners Association, Inc.; John L. Avent; Frances Avent; Sylvia S. Berger; Robert J. Berning; Jeanne M. Clavel; Greg Connell; Gerald Crawford; Bruce C. Douglas; Jonathan D. Dunn; Les Galazka; Michael V. Goransky; Frank L. Gougher; David E. Harris; Cathryn A. Knight; John H. Lacher; Kyle R. Larson; Laura Linn; Roger McCoig; Charles Wilmont Miller; Michael O'Brien; Carolyn M. Rischbieter; William Satcher and Belinda Smith-Sullivan, Defendants,

OF WHOM S17 Owners Association, Inc.; John L. Avent; Frances Avent; Sylvia S. Berger; Greg Connell; Jonathan D. Dunn; Michael V. Goransky; Frank L. Gougher; David E. Harris; Cathryn A. Knight; John H. Lacher; Kyle R. Larson; Michael O'Brien; Carolyn M. Rischbieter; and Belinda Smith-Sullivan, are Appellants.

MOTION OF APPELLANTS
Proof of Service Request

The Initial Brief of the Appellants, which was served upon the Respondents on September 24, 2014, questions the jurisdiction of the Court based upon a lack of service upon all of the Defendants. Some Defendants authorized an attorney to accept service - but not all. Some Defendants were served directly, but not all. To prove court jurisdiction, an affidavit of service or a signed authorization to accept should be presented for each Defendant.

Appellants hereby ask the Court to, 1) require Attorney Marsha Banks to provide a certified copy of the document signed by each Defendant agreeing to representation; and, 2) require Attorney Michael Medlock to provide certified copies of the applicable affidavits of service, filed with the lower court that pertain to Defendants of this Case.

September 29, 2014



Philip H. Woolhiser
Attorney for Appellants
112 Trafalgar St., SW
Aiken, South Carolina
SC Bar #12466

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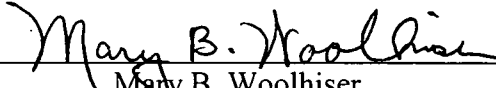
Kathy Ouzts Rushton, Special Referee

Case No. 2014-001742

CERTIFICATE OF SERVICE

I, Mary B. Woolhiser, Secretary for Attorney Philip H. Woolhiser, certify that I have caused Appellants' Motion for Proof of Service and this Certificate of Service, in the above-referenced matter to be served, via U.S. Mail on September 29, 2014, to applicable parties as addressed below:

Aiken, South Carolina
September 29, 2014


Mary B. Woolhiser

To:

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211-1629

Michael S. Medlock, Esquire
3600 Forest Drive, Suite 102
Columbia, SC 29204

Paul Knapp Simons, Esquire
111 Park Ave SW
Aiken, SC 29801

Marsha M. Banks, Esquire
319 Park Ave SE
Aiken, SC 29801

S-17 Owners Association, Inc.
81 Rachel Ave
Trenton, SC 29847

Robert J. Berning
120 Pine Needle Rd.
Aiken, SC 29803

SCACR Rule 240 (c)(2)
MEMORANDUM OF AUTHORITIES

SCRCP Rule 3.(a) requires the Summons and Complaint to be filed with the Clerk of Court, and served within 120 days.

SCRCP Rule 4.(c) requires service of the Summons and Complaint upon all Defendants.

SCRCP Rule 5.(d) and (e) defines the required Proof of Service which must be filed with the Court.

SCACR Rule 240 (c)(3)
SUPPORT OF POSITION

The First Issue presented in the Appellants' Initial Brief, dated September 24, 2014, presents reasons to question the evidence existing in the Court records to prove adequate service.

The applicable sections of the Appellants' Initial Brief are as follows:

- a) Page 6 - service upon the registered agent of S17 Owners Association, Inc. is doubted.
- b) Page 7 - the attorney for the Defendants stated that she does not represent all of the Defendants.
- c) Page 7 - the attorney for the Plaintiffs does not refer to any affidavits of service upon the Defendants.

In summary, the question of adequate service involves a mixture of defendants that may have authorized their attorney to accept service, and defendants that were actually served. The Motion requests the relevant attorneys to submit the evidence in their file that either proves jurisdiction, or assists a conclusion to this Case.

Philip H. Woolhiser, Attorney at Law

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Aiken, SC 29801-3744

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Email: woolhiser@bellsouth.net

September 29, 2014

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211-1629

Subject: Bernard and Sherry Loyer v. S17 Owners Association, Inc. et. al.
Case No.: 2014-001742

Dear Ms. Kitchings,


In accordance with SCACR Rule 240(d), please find enclosed the original "Motion of Appellants" dated September 29, 2014, to be filed. The Motion is a request for the applicable attorneys to provide evidence of service of the Summons and Complaint for this Case.

In addition to the original, 6 copies of the Motion are also enclosed for filing.

A copy of the Motion has been served upon each party via a copy of this letter and as evidenced by the enclosed "Certificate of Service". Lastly, my check #2992 in the amount of \$25.00 for the filing fee of the Motion, as set by order of the Supreme Court, is enclosed.

Please note the revised mailing address for Defendant, S17 Owners Association, Inc. located on page 3.

Sincerely yours,



Philip H. Woolhiser
Attorney for Appellants
SC Bar # 0012466

Enclosures
PW/mw

cc: Michael S. Medlock, Esquire
Paul Knapp Simons, Esquire
Marsha M. Banks, Esquire
S-17 Owners Association, Inc.
Robert J. Berning

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