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FEB 23 2015

IN THE COURT OF COMMON PLEAS

SC Court of Appeals

STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

Spartanburg Buddhist Center of South  
Carolina, Inc.,

Plaintiff,

Vs.

Ron Ork and Luke Dong,

Defendants.

**NOTICES OF MOTIONS AND MOTION TO  
RECONSIDER, ALTER, OR AMEND THE  
CONTEMPT ORDER AND MOTION FOR STAY  
OF EXECUTION OF THE CONTEMPT ORDER**

Case No.: 2014-CP-42-1622

Ron Ork and Luke Dong

Third Party Plaintiffs,

Vs.

Chivin Sun, Robert Pek, Sakhan Sok,  
Sambo Khieav, Sophay Pres, and  
Tommy Ong,

Third Party Defendants.

FILED  
CLERK OF COURT  
SPARTANBURG COUNTY  
2015 JAN 13 PM 4:22  
M. HOPE BLACKLEY

TO: THE HONORABLE R. KEITH KELLY, PRESIDING JUDGE, and TALLEY LAW FIRM  
ATTORNEYS FOR PLAINTIFF,

**I. NOTICE AND MOTION TO STAY EXECUTION OF THE CONTEMPT ORDER**

YOU WILL PLEASE TAKE NOTICE that pursuant to Rule 62 of the South Carolina Rules of Civil Procedure ("SCRCP"), the Defendant, Ron Ork, through his attorneys, will move before the Presiding Judge of the Common Pleas Court in Spartanburg County, Spartanburg, SC, at a date and time to be specified by the court, for an order staying the execution of the Contempt Order dated January 7, 2015 for the time it takes the court to make a ruling on Ron Ork's motion to reconsider, alter, or amend, and the time it takes an appellate court with jurisdiction to rule on any appeal that arises out of an adverse ruling in the disposition of the motion to reconsider, alter, or amend.

SCRCP Rule 62(b) states in part that, "In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any

proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60..."

Ron Ork makes this motion because the Contempt Order requires him to pay \$3,500.00 of attorney's fees to the Plaintiff within 45 days of the date of the Contempt Order and Mr. Ork is facing a five month prison sentence if he does not pay \$59,765.30 within ninety days of the date of the Contempt Order. However, Mr. Ork is a Buddhist monk with no income. Mr. Ork survives on the donations of others, owns no property, and lives in property owned by the Plaintiff. Mr. Ork does not have the ability to purge himself of contempt. Mr. Ork used the three checks at issue to pay the Plaintiff's construction bills and did not personally retain any of the money he withdrew. Mr. Ork will have to serve five months in prison unless others step forward and donate to him the amounts set forth in the Contempt Order, which they are not obligated to do.

## II. NOTICE AND MOTION TO RECONSIDER, ALTER, OR AMEND THE CONTEMPT ORDER

YOU WILL PLEASE TAKE NOTICE that pursuant to Rules 59 and 60 of the South Carolina Rules of Civil Procedure ("SCRCP"), the Defendant, Ron Ork, through his attorneys, will move before the Presiding Judge of the Common Pleas Court in Spartanburg County, Spartanburg, SC, at a date and time to be specified by the court, for an order that reconsiders, alters, or amends the Contempt Order dated January 7, 2015, the Order Granting Temporary Injunction dated April 21, 2014, and the Order Granting Temporary Injunction dated May 1, 2014 to correct all errors of law and fact in those orders, which are more specifically set forth below:

1) The court erred by issuing a temporary injunction on April 21, 2014 (a) in violation of SCRCP Rule 65, (b) without providing notice to the Defendants prior to its issuance, (c) denying the Defendants an opportunity to be heard, (d) issuing the injunction without a bond, (e) ordering the parties to maintain a status quo that did not exist when the court signed the temporary injunction, and (f) failing to be "specific in terms." (See *International Longshoremen Assn Local 1291 v. Philadelphia Marine Trade Association International Longshoremen Assn*

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SPARTANBURG COUNTY  
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*Local 1291 v. Philadelphia Marine Trade Association*, 389 U.S. 64, 88 S.Ct. 201, 19 L.Ed.2d 236 (1967); *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 50, 674 S.E.2d 505, 508 (Ct. App. 2008))

2) The court erred by issuing a second temporary injunction filed on May 16, 2014 (a) in violation of SCRCF Rule 65, (b) without a bond, (c) that ordered injunctive relief not requested by the parties to the lawsuit, and (d) that failed to be "specific in terms." (See *International Longshoremen Assn Local 1291 v. Philadelphia Marine Trade Association* *International Longshoremen Assn Local 1291 v. Philadelphia Marine Trade Association*, 389 U.S. 64, 88 S.Ct. 201, 19 L.Ed.2d 236 (1967); *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 50, 674 S.E.2d 505, 508 (Ct. App. 2008))

3) The court erred by holding Ron Ork in contempt of the first temporary injunction because Ron Ork complied with the first temporary injunction when he "deposit[ed] any funds withdrawn on or after April 18, 2014 back into Plaintiff's bank account within twenty-four (24) hours of [the] Order," which is all the temporary injunction required him to do. (*International Longshoremen Assn Local 1291 v. Philadelphia Marine Trade Association* *International Longshoremen Assn Local 1291 v. Philadelphia Marine Trade Association*, 389 U.S. 64, 88 S.Ct. 201, 19 L.Ed.2d 236 (1967); *Welchel v. Boyter*, 260 S.C. 418, 196 S.E.2d 496 (S.C., 1973); *County of Greenville v. Mann*, 556 S.E.2d 383, 347 S.C. 427 (S.C., 2001); *Phillips v. Phillips*, 341 S.E.2d 132, 288 S.C. 185 (S.C., 1986); *Western Carolina Regional Sewer Authority v. Bell*, 320 S.E.2d 487, 282 S.C. 646 (S.C. App., 1984))

4) The court erred by holding Ron Ork in contempt of the second temporary injunction because Ron Ork issued the last check in question on May 9, 2014, but the court did not file the second temporary injunction requiring the parties to agree on payment obligations until May 16, 2014, days after Ron Ork issued the last check. (See SCRCF Rule 58. *Serowski*, 381 S.C. 306, 315, 672 S.E.2d 589, 594 (Ct. App. 2009); *Ashenfelder v. City of Georgetown*, 389 S.C. 568, 698 S.E.2d 856 (S.C. App., 2010))

5) The court erred by awarding the Plaintiff \$3,500.00 in attorney's fees because (a) the Plaintiff did not request attorney's fees, (b) the court issued the Rule to Show Cause and not the Plaintiff, (c) the Rule to Show Cause did not mention that the court or Plaintiff were requesting attorney's fees, (d) the Plaintiff did not file an affidavit for attorney's fees, (e) there is no evidence on the record by which the court could evaluate the factors the court should consider when deciding whether to award attorney's fees or the amount of such fees, and (f) Ron Ork is

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SEROWSKI v. ASHENFELDER

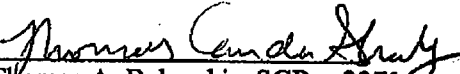
unable to pay \$3,500.00 of attorney's fees to the Plaintiff. (See *Williamson v. Middleton*, 649 S.E.2d 57, 374 S.C. 419 (S.C. App., 2007); *Buist v. Buist* (S.C., 2014))

The movant's counsel affirms that prior to filing the motions the movant's counsel has communicated, orally or in writing, with opposing counsel and has attempted in good faith to resolve the matters contained in the motions, consultation would serve no useful purpose, or could not be timely held.

The motions are based upon the applicable Rules of Court, applicable and South Carolina case law, the evidence on record, and any affidavits and/or memorandum which may be filed prior to the hearing. The movant further alleges that the movant is prompt in filing for relief, the existence of meritorious defenses, and the opposing party will not be adversely prejudiced.

Respectfully Submitted by:

**A BUSINESS LAW FIRM, LLC**

  
Thomas A. Belenchia, SCBar 2371  
tab@abizlaw.com  
T. Camden Shealy, SCBar 101447  
tcs@abizlaw.com  
Larry E. Gregg II, SCBar 101215  
leg@abizlaw.com  
Attorneys for Defendants  
P. O. Box 3421  
Spartanburg, SC 29304  
Phone: (864) 699-9801  
Fax: (864) 699-9803

January 13, 2015

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CLERK OF COURT  
SPARTANBURG COUNTY  
2015 JAN 13 PM 1:22  
M. HOPE BLACKLEY

**Camden Shealy**

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**From:** Kelly, R. Keith Law Clerk (Adrienne Barry) <kellylc@sccourts.org>  
**Sent:** Monday, February 16, 2015 12:14 PM  
**To:** Camden Shealy  
**Cc:** 'Thomas A. Belenchia'  
**Subject:** RE: Spartanburg Buddhist Center v. Luke Dong and Ron Ork, 2014CP4201622

I will have the order turned into the clerk's office by Wednesday.

Thanks,

Adrienne

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FEB 23 2015

**SC Court of Appeals**

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**From:** Camden Shealy <tcs@abizlaw.com>  
**Sent:** Monday, February 16, 2015 9:00 AM  
**To:** Kelly, R. Keith Law Clerk (Adrienne Barry)  
**Cc:** 'Thomas A. Belenchia'  
**Subject:** Spartanburg Buddhist Center v. Luke Dong and Ron Ork, 2014CP4201622

Ms. Barry,

The Defendants in the above-referenced case filed a Motion to Reconsider and a Motion to Stay Execution of the Order pending appeal. It is my understanding that you were going to prepare an order denying those motions. Could you please notify me of the status of that order as soon as you are able. The Defendants are going to appeal the Order and would preferably have a copy to attach to the Notice of Appeal.

Thank you for your time,

T. Camden Shealy  
A Business Law Firm LLC  
PO Box 3421  
Spartanburg, SC 29304  
[tcs@abizlaw.com](mailto:tcs@abizlaw.com)<<mailto:tab@abizlaw.com>>  
864-699-9801 (o)  
864-699-9803 (f)

Take a Tour of Our Office<[CONFIDENTIAL & ATTORNEY-CLIENT PRIVILEGED: This message is intended only for the use of the addressee and the information within this transmission is PRIVILEGED, CONFIDENTIAL and intended ONLY for the use of the individual or entity above named. If the recipient or reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you receive this communication in](https://urldefense.proofpoint.com/v2/url?u=http-3A_abizlaw.com_office-2Dtour_d&d=AwMFAg&c=YGvVmrQQ6VQOFx3Z93C9uQ&r=MBt8tB0aeQ0kmvignNrh1wUwackD8BDe4XasZ5lr_Os&m=J8c7wzSDG-sD72zay_HWFsVV5m0gKooS5W6n1m_ftxU&s=8PWCIJM_eLlIVdZX18fjnpj0hV-hoefy3w-kmQbBtsk&e=></a></p></div><div data-bbox=)

## Camden Shealy

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**From:** Larry Gregg <leg@abizlaw.com>  
**Sent:** Friday, February 06, 2015 11:38 AM  
**To:** 'Thomas Belenchia'; Camden Shealy  
**Subject:** FW: Inquiry regarding the status of the Defendants' Motion to Reconsider

**From:** Kelly, R. Keith Law Clerk (Adrienne Barry) [<mailto:kkellylc@sccourts.org>]  
**Sent:** Friday, February 06, 2015 11:42 AM  
**To:** Larry Gregg  
**Cc:** Shannon M. Phillips  
**Subject:** RE: Inquiry regarding the status of the Defendants' Motion to Reconsider

Good morning,

Judge Kelly has denied the Motion to Reconsider. I will be preparing an order and filing it with the Clerk's office. I will let you know when this has taken place.

Thanks,

Adrienne

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**From:** Larry Gregg [<mailto:leg@abizlaw.com>]  
**Sent:** Thursday, February 05, 2015 1:03 PM  
**To:** Kelly, R. Keith Law Clerk (Adrienne Barry)  
**Cc:** Shannon M. Phillips  
**Subject:** Inquiry regarding the status of the Defendants' Motion to Reconsider

Dear Adrienne:

On January 13, 2015 the Defendants filed a Motion to Reconsider for the Court's Order dated January 7, 2015. Because of the deadlines in the Order, I am writing to inquire on the status of the Court's ruling on this Motion. I want to be sure that we have not missed something. Thank you in advance for your assistance.

Respectfully,

Larry E. Gregg, Esq.  
A Business Law Firm, LLC  
PO Box 3421  
Spartanburg, SC 29304  
[leg@abizlaw.com](mailto:leg@abizlaw.com)  
864-699-9801 (o)  
864-699-9803 (f)

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**IRS CIRCULAR 230 NOTICE:** To ensure compliance with requirements imposed by the US Internal Revenue Service ("IRS"), we inform you that any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, by any taxpayer for the purpose of (1)

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

Spartanburg Buddhist Center of South Carolina, Inc.,  
 Plaintiff

v.

Ron Ork And Luke Dong  
 Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.  
2014-CP-42-1622

MOTION AND ORDER INFORMATION  
FORM AND COVER SHEET

Plaintiff's Attorney: Scott F. Talley, Bar No. Address: 2500 Winchester Place, Suite 110, Spartanburg, SC 29301 phone: 864-595-2966 fax: 864-595-2969 e-mail: other:	Defendant's Attorney: Thomas A. Belenchia, Bar No. 2371 Address: 1989 South Pine Street, Spartanburg, SC 29302 phone: 864-699-9801 fax: 864-699-9803 e-mail: other:
<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)	
<b>SECTION I: Hearing Information</b> Nature of Motion: Motion to Reconsider, Motion for Stay of Executino of Contempt Order Estimated Time Needed: 15 mins Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	
<b>SECTION II: Motion/Order Type</b> <input checked="" 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.  <div style="display: flex; justify-content: space-between;"> <div> <i>Thomas Camden Shively</i>            Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant         </div> <div>           January 13, 2015            Date submitted         </div> </div>	
<b>SECTION III: Motion Fee</b> <input checked="" type="checkbox"/> PAID - AMOUNT: \$25.00 <input type="checkbox"/> EXEMPT: (check reason) <ul style="list-style-type: none"> <li><input type="checkbox"/> Rule to Show Cause in Child or Spousal Support</li> <li><input type="checkbox"/> Domestic Abuse or Abuse and Neglect</li> <li><input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party</li> <li><input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief</li> <li><input type="checkbox"/> Motion for Stay in Bankruptcy</li> <li><input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)</li> <li><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</li> </ul> Name of Court Reporter: <input type="checkbox"/> Other:	
<b>JUDGE'S SECTION</b> <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	JUDGE _____  CODE: _____ Date: _____
<b>CLERK'S VERIFICATION</b> Collected by: <i>Connie Seay</i> Date Filed: _____ <input checked="" type="checkbox"/> MOTION FEE COLLECTED: <u>25.00</u> <input type="checkbox"/> CONTESTED - AMOUNT DUE: _____	

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STATE OF SOUTH CAROLINA )  
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COUNTY OF SPARTANBURG )  
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Spartanburg Buddhist Center of )  
South Carolina, Inc., )  
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Plaintiff, )  
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Vs. )  
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Ron Ork and Luke Dong, )  
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Defendants. )

IN THE COURT OF COMMON PLEAS

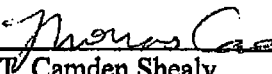
CERTIFICATE OF SERVICE

Case No.: 2014-CP-42-1622

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SC Court of Appeals

I, the undersigned for Ron Ork, do hereby certify that I have served all counsel and the lower court judge in this action with a copy of Ron Ork's NOTICES OF MOTIONS AND MOTION TO RECONSIDER, ALTER, OR AMEND THE CONTEMPT ORDER and MOTION FOR STAY OF EXECUTION OF THE CONTEMPT ORDER by mailing a copy of the same by United States Mail, postage prepaid, to the following addresses:

- a. The Honorable R. Keith Kelly  
125 E. Floyd Baker Blvd.  
Gaffney, SC 29340
  
- b. Scott F. Talley  
Talley Law Firm  
2500 Winchester Place, Suite 100  
Spartanburg, SC 29301

  
T. Camden Shealy  
P. O. Box 3421  
Spartanburg, SC 29304  
Phone: (864) 699-9801  
Fax: (864) 699-9803

January 13, 2015

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THOMAS A. BELENCHIA  
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LARRY E. GREGG II  
LEG@ABIZLAW.COM  
LICENSED IN SC

T. CAMDEN SHEALY  
TCS@ABIZLAW.COM  
LICENSED IN NC & SC

Attorneys and Counselors at Law

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Via electronic mail and US Mail

FEB 23 2015

February 19, 2015

**SC Court of Appeals**

Jenny Abbott Kitchings  
Clerk of Court, SC Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Re: Spartanburg Buddhist Center of South Carolina, Inc. vs Ron Ork and Luke Dong, 2014-CP-42-01622

Dear Mrs. Kitchings,

Ron Ork and Luke Dong are Appellants in the above-referenced case. They attempted to file a Notice of Appeal yesterday, February 18, 2015, to appeal, in part, an order disposing of their South Carolina Rules of Civil Procedure Rules 59 and 60 Motion and Motion to Stay Execution of the Order pending appeal.

It is my understanding that the South Carolina Court of Appeals cannot accept the Notice of Appeal without either an order disposing of the Motions or a letter that elucidates the reason the order was not included. I am writing this letter to satisfy the latter option.

The lower court issued a Contempt Order against one of the Appellants on January 7, 2015. The Contempt Order ordered the Appellant to pay \$3,500.00 to Respondent's counsel within 45 days of the Order. The Appellants filed their Motions on January 13, 2015. (See attached Motions). My estimation is that the Appellant would have to pay the \$3,500.00 by Saturday, February 21, 2015 or he could be held in contempt of the Contempt Order. The Appellants have not received an order regarding the Motions. The lower court told the Appellants that it had denied the Motions and would provide an order by Wednesday, February 18, 2015, but the lower court did not do so. (See attached emails).

The Appellants cannot wait for the court to issue an order any longer without running the risk that the Appellant will be subject to contempt of the Contempt Order on February 21, 2015. Please consider these reasons as sufficient for the Appellant to file the Notice of Appeal that was submitted to the Court of Appeals on February 18, 2015.

Please let me know of any concerns or issues. The Respondent's counsel will receive a copy of this letter and the attachments.

Very Respectfully,

THOMAS A. BELENCHIA

TAB@ABIZLAW.COM

LICENSED IN NC & SC



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LICENSED IN SC

T. CAMDEN SHEALY


TCS@ABIZLAW.COM

LICENSED IN NC & SC

---

Attorneys and Counselors at Law

---

  
T. Camden Shealy, Bar No. 101447

Cc: Scott Talley  
Shannon Phillips



Jenny Abbott Kitchings  
Clerk of Court, SC Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

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SC Court of Appeals

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