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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Hon. John C. Hayes, III, Circuit Court Judge
Case No. 2015-001053

RECEIVED
JUN 24 2015
SC Court of Appeals

Marjorie Cato Burton as Trustee of the Sloan Marvin Burton and Marjorie Cato Burton, AB
Living Trust by and through David A. Burton as Attorney-in-Fact, Individually and in the Right and on
Behalf of T.E. Cato Estate, LLC Appellant

v.

Carroll M. Pitts, Jr., Esq., and Robinson Bradshaw & Hinson, P.A. Respondents

NOTICE OF MOTION AND MOTION FOR SUBSTITUTION OF COUNSEL

Roger B. Jellenik, Esq.
1106 Little Street
Camden, SC 29020
(803) 424-1919
Attorney for Appellant

Samuel W. Outten, Esq.
Nelson Mullins Riley & Scarborough
Poinsett Plaza
Suite 900
104 South Main Street
Greenville SC 29601
Attorney for Respondents

Pursuant to SCACR 240, 264, and 267, Roger B. Jellenik, Esq., as counsel of record for David A. Burton as Successor Trustee of the Sloan Marvin Burton and Marjorie Cato Burton, AB Living Trust, the Appellant in the captioned action, files this motion for substitution of counsel. In support of this motion, the undersigned shows the court the following:

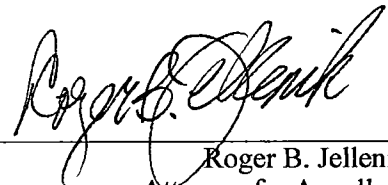
1. The captioned action is an appeal from the Order of the Hon. John C. Hayes, III, dated April 3, 2015, finding for the Appellees/Defendants (“Appellees”) and against the Appellant/Plaintiff (“Appellant”) after trial. Appellant initially filed its Summons and Complaint in this matter on May 27, 2010, on behalf of the Appellant and derivatively on behalf of T.E. Cato Estate, L.L.C., a family held limited liability company. The Complaint sought damages from Appellees/Defendants based upon causes of action for legal malpractice or, in the alternative, professional negligence. On April 16, 2015, after receiving Judge Hayes’ April 3 Order, Appellant filed a Rule 59(e) motion, which Judge Hayes denied by order dated April 28, 2015. A Notice of Appeal was filed on behalf of Appellant on or about May 14, 2015.

2. The attorney to be substituted is Matthew B. Rosbrugh, Esq., MBR Law, LLC, Post Office Box 292290, Columbia, SC 29229, (803) 753-1432, S.C. Bar No. 68619.

3. This motion for substitution has been approved by Dr. Burton, Successor Trustee of Appellant.

Wherefore, Roger B. Jellenik, Esq., respectfully requests that the court grant this motion for substitution of counsel, and substitute Matthew B. Rosbrugh, Esq., as the counsel of record in place of Roger B. Jellenik, Esq., for the Sloan Marvin Burton and Marjorie Cato Burton, AB Living Trust, the Appellant in this appeal.

Dated this 24th day of June, 2015.



Roger B. Jellenik
Attorney for Appellant
S.C. Bar No. 13546

CONSENT OF CLIENT TO SUBSTITUTION OF COUNSEL

I, David A. Burton, Successor Trustee of the Sloan Marvin Burton and Marjorie Cato Burton, AB Living Trust, the Appellant in the above-entitled action, consent to the substitution of Matthew B. Rosbrugh, Esq., as my attorney of record in this appeal in place of Roger B. Jellenik, Esq.

Dated this 24th day of June, 2015.

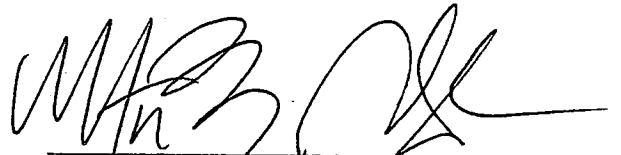


David A. Burton, Successor Trustee
Sloan Marvin Burton and Marjorie Cato Burton, AB Living Trust

CONSENT OF NEW COUNSEL TO SUBSTITUTION OF COUNSEL

I hereby consent to the substitution of Matthew B. Rosbrugh, Esq., as attorney of record for the Sloan Marvin Burton and Marjorie Cato Burton, AB Living Trust, in this appeal in place of Roger B. Jellenik, Esq.

Dated this ___ day of June, 2015.



Matthew B. Rosbrugh
MBR Law
Post Office Box 292290
Columbia, South Carolina 29229
S.C. Bar No. 68619

The State Of South Carolina
In The Court Of Appeals

APPEAL FROM YORK COUNTY
Court Of Common Pleas
Hon. John C. Hayes, III, Circuit Court Judge

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Case No. 2015-001053

Marjorie Cato Burton as Trustee of the Sloan Marvin Burton and Marjorie Cato Burton, AB Living Trust
by and through David A. Burton as Attorney-in-Fact, Individually and in the Right and on Behalf of T.E.
Cato Estate, LLC

..... Appellant

v.

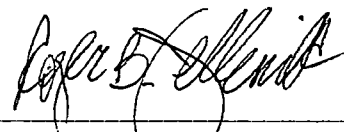
Carroll M. Pitts, Jr., Esq., and Robinson Bradshaw & Hinson, P.A.

..... Respondents

PROOF OF SERVICE

I certify that I have served the Motion for Substitution of Counsel on Respondents by depositing a copy of it in the United States Mail, postage prepaid, on June 24, 2015, addressed to their attorney of record, Samuel W. Outten, Esq., Post Office Box 10084, Greenville SC 29603-0084 and also on Appellant's remaining attorney of record by depositing a copy of it in the United States Mail, postage prepaid, on June 24, 2015, addressed to Ballard & Watson, Attorneys at Law, P.O. Box 6338, West Columbia, SC 29169.

June 24, 2015



Roger B. Jellenik
1106 Little Street
Camden, SC 29020
Attorney for Appellant

ROGER B. JELLENIK
ATTORNEY AT LAW

1106 Little Street
Camden, SC 29020

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Facsimile 803-424-1922
rbjatty@mac.com

Wednesday, June 24, 2015

VIA HAND DELIVERY

Hon. Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1205 Pendleton Street
Columbia, SC 29201

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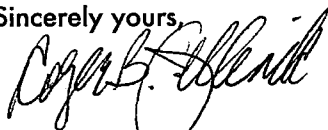
RE: Burton et al. v. Pitts et al., Case No. 2015-001053
Motion for Substitution of Counsel

Dear Ms. Kitchings:

Due to the motion from Ballard & Watson now pending, and after exploring available alternatives, Dr. Burton, the Successor Trustee for the Appellant in the referenced matter, has consented to substituting Matthew W. Rosbrugh, Esq., in place of the undersigned for the appeal now pending. Accordingly, enclosed is the original and seven copies of the referenced motion, including consents from Dr. Burton and from Mr. Rosbrugh. Also enclosed are an additional copy of this motion, a Proof of Service, and a check for the filing fee in the amount of \$25.00. Please file the original and seven copies and clock and return the additional copy to the undersigned.

Thank you in advance for your attention to this matter.

Sincerely yours,



Roger B. Jellenik

RBJ/AMBP

Enclosure(s): No

Distribution: Samuel W. Outten, Esq.; Ballard & Watson; M.B. Rosbrugh, Esq., Client; Chron; File