

76641

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

JUL 16 2015

SC Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Case No. 2014-CP-26-0008
Appellate Case No. 2014-001033

Bigford Enterprises, Inc., Bishop & Associates, Inc., d/b/a "Bishop Brick and
Construction", and McBride Building Supplies and
Hardware, Inc., Appellants.

v.

D.C. Development, Inc. n/k/a D.C. Development & Construction, LLC By Way of
Articles of Conversion and David Cox, Respondents.

PETITION FOR REHEARING EN BANC

Unpublished Opinion No. 2015-UP-330
Submitted April 1, 2015 – Filed July 1, 2015

William E. Booth III
3231 Sunset Boulevard, Suite A
West Columbia, SC 29169
(803) 791-9211 (T)
(803) 791-3159 (F)
bill@boothlawfirm.com
SC Bar No. 771

Attorney for Respondents

Pursuant to Rule 221(a), SCACR, Respondents, D.C. Development, Inc. n/k/a D.C. Development & Construction, LLC By Way of Articles of Conversion and David Cox, submit this Petition for Rehearing *en banc* as to the points overlooked or misapprehended by this Court in its Unpublished Opinion No. 2015-UP-0330 filed on July 1, 2015, as follows:

POINT 1: As to the statement made in the Opinion that the general rule is that the Statute of Limitations does not apply to an action to pierce the corporate veil, the Court misapprehended or overlooked the fact that there is no South Carolina case directly on point. This is an issue of first impression and the Court should have considered in this case that the judgments sought to be imposed upon the individual stockholder (David Cox) resulted from the failure to pay an open account arrangement with Respondent D.C. Development & Construction, LLC (hereinafter "DC Development") as the general contractor. The time period during which DC Development purchased materials from these judgment holders for the construction of an apartment complex should be the time period to determine if the elements of a piercing case are proven. The action to pierce the corporate veil was filed more than three years after the default and the obtaining of the judgements distinguishing this case from the case of Dixon v. Dixon, 362 S.C. 388, 608 S.E.2d 849 (2005). Thus, the judgment holder is actually suing a second time for the failure to pay on the open account. The Statute of Limitations for an action on a contract is three years and this limitation must be applicable to an action to pierce the corporate veil.

For these reasons, Respondent asks the Court to rehear the case *en banc*.

July 16, 2015

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. Booth III', written over a horizontal line.

William E. Booth III
3231 Sunset Boulevard, Suite A
West Columbia, SC 29169
(803) 791-9211 (T)
(803) 791-3159 (F)
bill@boothlawfirm.com
SC Bar No. 771

Attorney for Respondents

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM HORRY COUNTY
Court of Common Pleas

JUL 16 2015

SC Court of Appeals

Benjamin H. Culbertson, Circuit Court Judge

Case No. 2014-CP-26-0008
Appellate Case No. 2014-001033

Bigford Enterprises, Inc., Bishop & Associates, Inc., d/b/a "Bishop Brick and Construction", and McBride Building Supplies and Hardware, Inc., Appellants.

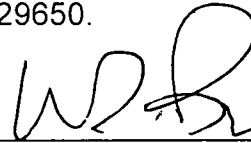
v.

D.C. Development, Inc. n/k/a D.C. Development & Construction, LLC By Way of Articles of Conversion and David Cox, Respondents.

PROOF OF SERVICE

I certify that I have served the Petition for Rehearing En Banc by causing to be mailed via first class mail with sufficient postage affixed thereto to his Appellants' attorney of record Wendell L. Hawkins, Esquire, Wendell L. Hawkins, P.A., 103-C Regency Commons Dr., Greer, SC 29650.

July 16, 2015



William E. Booth III
3231 Sunset Boulevard, Suite A
West Columbia, SC 29169
(803) 791-9211 (T)
(803) 791-3159 (F)
bill@boothlawfirmssc.com
SC Bar No. 771

Attorney for Respondents

BOOTH

LAW FIRM, LLC

WILLIAM E. BOOTH III
BILL@BOOTHLAWFIRMSC.COM

CONSOLIDATED BUSINESS PARK
3231 SUNSET BOULEVARD, SUITE A
WEST COLUMBIA, SC 29169

P: 803.791.9211
F: 803.791.3159

July 16, 2015

RECEIVED
JUL 16 2015
SC Court of Appeals

Hon. Jenny Abbott Kitchings
Clerk of Court of the South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

Re: Bigford Enterprises, Inc., et al. vs. D.C. Development, Inc., et al.
Appellate Case No. 2014-001033
(Our File No. 4117.1331)

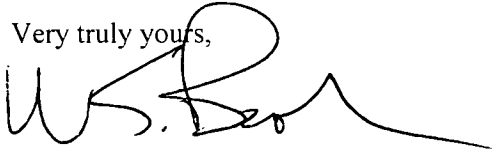
Dear Ms. Kitchings:

I enclose for filing the following:

1. Original and six (6) copies of a Petition for Rehearing En Banc;
2. Original Proof of Service; and
3. Check in the amount of \$25.00 for the filing fee.

By copy of this letter, I am providing a copy of the Petition for Rehearing and Proof of Service on counsel for Appellants. If you have any questions on this, please let me know.

Very truly yours,



William E. Booth III

WEBIII/eje
Enclosure

C: Wendell L. Hawkins (w/Enc.)
David Cox (w/Enc.)