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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY
CASE No. 2011- CP-10-1084
Circuit Court Judge R. Markley Dennis, Jr.

OCT 07 2015

SC Court of Appeals

ROOSEVELT SIMMONS..... Appellant

Vs.

MASE and COMPANY, LLC,
J. AL CANNON, JR.,
CHARLESTON COUNTY SHERIFF'S DEPARTMENT,
CHARLESTON COUNTY REVENUE COLLECTIONS DEPARTMENT

and

HARRY LONG..... Respondents

**APPELLANT'S MOTION TO
STAY THE FILING OF
ALL BRIEFS
AND RECORD ON APPEAL**

Appellant Roosevelt Simmons files this Motion to Stay the Court's September 18th Orders setting October 8, 2015 for the filing of all Briefs and the Record on Appeal. Appellant requests this Stay for the following reasons. Appellant previously filed his Reply Brief on July 20, 2015 together with a Motion for Leave to file an Overlength Reply Brief. In that Motion Appellant asserted that this appeal involves complex questions of the jurisdiction of the Magistrate's Court and the Circuit Court's to vacate a Magistrate Court judgment based upon equitable circumstances , the applicability of a user fee ordinance to Appellant's property, whether County Respondents committed civil rights violations against Appellant

by unequal application of the Ordinance and enforcement of a judgment , whether County Respondents were negligent in the retention of Respondent Long and whether the judicial sale of Appellant's property to Respondent Mase and Company, LLC should be vacated. County Respondents filed an Amended Initial Brief which was 42 pages mainly addressing five Counts that were dismissed. Respondent Mase and Company, LLC filed an Initial Brief totaling 20 pages mainly addressing the Sixth Count which was dismissed. Appellant asserted that Respondents raised different issues that could not reasonably be addressed in the 25 page limit for a Reply Brief under SCRAP 208(b)(5) and requested leave for file a Reply Brief of 36 pages. No Return in opposition was filed and that motion is still pending.

On July 28, 2015, County Respondents filed a Motion for a Protective Order to enforce a prior Consent Protective Order entered in the United States District Court in September 2011 while this action was pending there. County Respondents requested that certain "Confidential Materials", more specifically, the Charleston County Sheriff's Department employment records of Respondent Harry Long be redacted from the Briefs and Record on Appeal. On August 7th, Appellant filed a Return to that Motion in which Counsel asserted that all Counsel had agreed on the contents of the Record on Appeal without any requirement for redaction, that the Record on Appeal had already been sent for duplication (which has since been completed) and redaction was not necessary to implement the Protective Order; rather filing everything "under seal" would accomplish the same result. Appellant's Counsel asserted that he had conferred with County Respondents' Counsel and that they agreed that all the Briefs and Record on Appeal could all be filed " under seal" as the means to satisfy the Consent Protective Order. County Respondents did not file any Reply to the Return in opposition. That motion is still pending.

Most recently, Counsel for all parties to this appeal filed requests to extend the time for the filing of their Briefs and the Record on Appeal. In Appellant's request, he referenced the pendency of these two Motions. This Court granted those extensions by Orders dated September 18th but has not yet addressed either Motion. However, the outcome of these two motions has a direct effect on the parties Briefs and the Record on Appeal. It will cause Appellant considerable expense to duplicate and file the requisite number of Briefs and the Record on Appeal (which contains over 600 pages) and file them on October 8th. If this Court were to order redaction or other modifications to them to effectuate the Consent Protective Order or denied Appellant's Motion to file an overlength Reply Brief, additional expenses would be incurred. Appellant contends that it would not serve the interests of justice or judicial economy and would cause financial hardship to Appellant if he had to comply with the September 18th Order in view of the uncertainty about the outcome of the pending Motions. The County Respondents and Respondent Mase and Company, LLC would be similarly affected and have consented to this request for a Stay. Therefore, Appellant respectfully requests a Stay of the September 18th Orders setting October 8th as the date for the filing of all Briefs and the Record on Appeal pending decision on Appellant's Motion to file an Overlength Reply Brief and County Respondents' Motion for a Protective Order.

Respectfully submitted,

By: 

Edward A. Bertele, Esq.

S.C. Bar No 72521

1812 Pierce Street

Charleston, SC 29492

843-471-2082

Attorney for Appellant, Roosevelt Simmons

Dated: September 30, 2015
Charleston, SC

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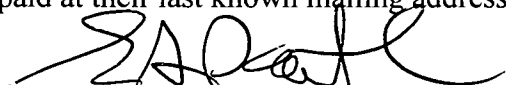
ROOSEVELT SIMMONS..... Appellant

Vs.

MASE and COMPANY, LLC,
J. AL CANNON, JR.,
CHARLESTON COUNTY SHERIFF'S DEPARTMENT,
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and
HARRY LONG..... Respondents

CERTIFICATION OF SERVICE

I hereby certify that a true copy of Appellant's Motion to Stay the filing of all Briefs and the Record on Appeal was served upon the Respondents attorneys, Christopher Dorsel, Esq. and Wendy Keefer, Esq. by regular mail postage prepaid at their last known mailing address.


Edward A. Bertele, Esq.

September 30, 2015

**EDWARD A. BERTELE
ATTORNEY AT LAW
1812 PIERCE STREET
CHARLESTON, SC 29492
Email: ebertele@msn.com**

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SO Court of Appeals
PO Box 11629
Fax: (843) 471-2082

Member: SC, NJ & NY bars

September 30, 2015

Ms. Jenny Abbott Kitchings, Clerk
Court of Appeals
1015 Sumter St.
PO Box 11629
Columbia, SC 29211

**Re: Simmons v. Mase and Co., LLC et al.
Case No. 2014-002575**

Dear Ms. Kitchings:

I am enclosing for filing the original and six copies of Appellant's Motion to Stay the Order dated September 18th for filing of the Briefs and Record on Appeal, the Certification of Service and my check for the motion filing fee of \$25.00. If you have any questions, please do not hesitate to call. Thank you for your kind assistance.

Very truly yours



Edward A. Bertele

Encl:

CC: Chris Dorsel, Esq.
Wendy Keefer, Esq.