

FINAL BRIEF

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
APR 27 2015
SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Mikell R. Scarborough, Master-In-Equity

Case No. 2009-JG-10-685
Appellant Case No. 2014-001345

Charleston Harbor Resort and Marina,

Respondent,

v.

Paul A. Davis,

Appellant.

FINAL BRIEF OF APPELLANT

Paul A. Davis
14639 C.R. Koon Highway
Newberry, S.C. 29108
803-321-7414
Appellant Pro Se

William A. Scott
772 St. Andrews Blvd.
Charleston S.C. 29407
843-556-5656
Attorney for Respondent

April 20, 2015

Jenny Abbott Kitchings
Clerk Of Court
South Carolina Court Of Appeals
P.O. Box 11629
Columbia, S.C. 29211

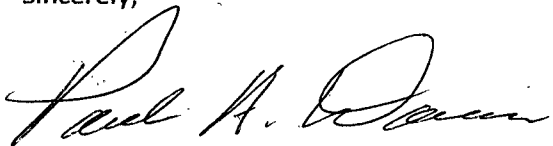
RE: Charleston Harbor Resort & Marina v. Paul A. Davis
South Carolina Court of Appeals, Case No. 2014-001345

Dear Ms. Kitchings:

Enclosed please find an original and fifteen (15) copies of the Final Brief of the Appellant, and the Certificate of Service in the above-referenced matter.

By copy of this letter, the Final Brief of the Appellant and Certificate of Service are being served upon the Respondent's Attorney, William A. Scott.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul A. Davis".

Paul A. Davis
14639 C. R. Koon Highway
Newberry, S.C. 29108
Davis 979@gmail.com
Pro SE

cc: William A. Scott

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM CHARLESTON COUNTY

Court Of Common Pleas

The Honorable Mikell R. Scarborough, Master In Equity

Case No. 2009-JG-10-685

Appellate Case No. 2014-001345

Charleston Harbor Resort and Marina ,

Respondent

v.

Paul A. Davis,

Appellant

DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL

Appellant proposes the following be included in the Record on Appeal:

1. Order of The Honorable Mikell R. Scarborough dated April 10, 2014 filed April 18, 2014;
2. Transcript of Proceedings pp . 69-72; p. 86 dated August 19, 2013;
3. Defendant's Exhibit A Return of Private Process Server Daniel F. Delcollo dated February 18, 2009; p.17
4. Defendant's Exhibit B Affidavit of Joyce Lockhart dated June 10, 2013; p.18
5. Defendant's Exhibit C Charleston Harbor Resort Marina statements and newsletters dated May 1, 2014, June 1, 2014, and July 1, 2014;
6. Notice Of Motion For Relief From Judgment, and Memorandum In Support dated June14, 2013; p.12

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM CHARLESTON COUNTY

Court Of Common Pleas

The Honorable Mikell R. Scarborough, Master In Equity

Case No. 2009-JG-10-685

Appellant Case No. 2014-001345

Charleston Harbor Resort & Marina

Respondent

v.

Paul A. Davis

Appellant

FINAL BRIEF OF APPELLANT

PAUL A. DAVIS
14639 C.R. KOON HIGHWAY
NEWBERRY, S.C. 29108
803-321-7414
davis979@gmail.com

September 2, 2014

Jenny Abbott Kitchings/Clerk
The South Carolina Court Of Appeals
P.O. Box 11629
Columbia, S.C. 29211

RE: Appeal
Charleston Harbor Resort and Marina-Plaintiff
v.
Paul A. Davis-Defendant
Case No. 2009-JG-10-685 Appellate Case No. 2014-001345

To Whom it May Concern:

I am appealing the Ruling by The Honorable Mikell R. Scarborough in the hearing held on August 19, 2013 at 100 Broad Street Charleston, S.C. in the Court of Common Pleas for the 9th Judicial Circuit, pertaining to a Judgment against myself obtained by Charleston Harbor Resort & Marina who is represented by William A. Scott, Esq. Rogers, Townsend and Thomas, PC, 775 St. Andrews Blvd. , Charleston, S.C. 29407. Service was on Joyce Lockhart, Corporate Systems, Inc. 505 Brookfield Dr. , Dover, Delaware 19901, a person in a city and state where I have never visited and have never met, nor given any authority to accept service on my behalf. Ms. Lockhart did not forward to me any documents that was served on her and I had absolutely no knowledge regarding a law suit, hearings or judgment. Once I was made aware of the existing judgment , I promptly asked John Hughes Cooper to challenge the judgment, which he did. 14639 C.R. Koon Highway Newberry, S.C. 29108 has been an active mailing address from 2000 to present. Plaintiff continues to mail statements and newsletters to this address (" Exhibit C"). Plaintiff's

Attorney, Mr. Scott, had knowledge and access to acquire this active address from his client, Charleston Harbor Resort and Marina, and did not. Instead, he sent service to an out of state location that had no authority to accept service on my behalf. I believe this service to be extremely improper, and an intentional act of deception by Mr. Scott to deprive me of my legal right of due process, and I respectfully request Judge Scarborough's ruling be reversed and Vacant Judgment as Void.

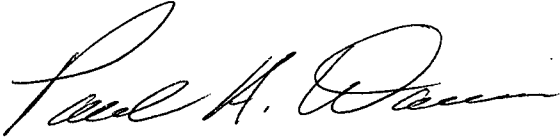
This Appeal for Relief from Judgment is based upon the Return of Private Process Server Daniel F. Delcollo ("Exhibit A"), the Affidavit of Joyce Lockhart ("Exhibit B"), statements and newsletters from Charleston Harbor Resort and Marina ("Exhibit C"), and the rules, statutes, common law, and Constitutions of South Carolina and of the United States. The Return of Private Process Server, Daniel F. Delcollo ("Exhibit A"), indicates that on February 4, 2009, at 10:45 a.m., he served "Corporate Systems, Inc. - Joyce Lockhart- Registered Agent" "by personally delivering copies to the authorized agent being served." The Return further gives a description of Ms. Lockhart as the person served. The affidavit of Joyce Lockhart ("Exhibit B") states under oath that neither she nor Corporate Systems, Inc. has never been an authorized agent for me. Although Corporate Systems, Inc. was and is the registered agent for a corporation owned by me, neither Joyce Lockhart nor Corporate Systems, Inc. was authorized to accept service for me, did not forward any documents to me, and did not notify me in any way. I do not believe this is proper Service. Rule 4 (d) (1) of the South Carolina Rules of Civil Procedure provides in pertinent part that "Service shall be made upon an individual by delivering a copy of the summons and complaint to him personally or by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy to an agent authorized by appointment or by law to receive service of process" Rule 4 (d)(1), South Carolina Rules of Civil Procedure. Plaintiff failed to serve me personally, failed

to serve someone of suitable age and discretion at my dwelling, and failed to serve anyone authorized by appointment or law. Plaintiff failed to comply with Rule 4(d)(1), failed to serve me with process, failed to obtain personal jurisdiction over me, failed to give me notice and opportunity to defend, and failed to observe my rights to due process. "A Judgment is void if a court acts without personal jurisdiction." BB&T v. Taylor, 369 S.C. 548, 551, 633, S.E.2d 501, 503 (2006); Thomas and Howard Co. v. T.W. Graham & Co., 318 S.C. 286, 291, 457 S.E. 2d 340, 343, (1995); Stearns Bank Nat. Ass'n. V. Glenwood Falls, LP 373 S.C. 331, 644 S.E. 2d 793 (S.C. App. 2007) (reh. den., cert. den.) The instant judgment was entered by a court without personal jurisdiction over me and is therefore void. "When a defendant is not properly served, 'the court has no jurisdiction of the defendant, and all proceedings based on the pretended service are void,' Momani v. Van Surdam, 296 S.C. 409, 373 S.E. 2d 691 (S.C., App. 1988), citing Wyman V. Hoover, 10 S.C. 135, 136 (1878). Rule 60 (b) (4) of the South Carolina Rules of Civil Procedure provides in pertinent part: "On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceedings for the following reasons: (4) the judgment is void:" Rule 60 (b) (4), South Carolina of Civil Procedure. "A void judgment is one that, from its inception, is a complete nullity and is without legal effect and must be distinguished from which is merely 'voidable'." Thomas & Howard Co. v. T.W. Graham & Co., 318 S.C. 286, 291, 457 S.E. 2d 340, 343 (1995) (citing, 46 AmJur2d Judgment 31 (1994.)) The instant judgment is void and should be vacated forthwith.

In summary: the only evidence in this case is the Return of Private Process Server, Daniel F. Delcollo, the Affidavit of Joyce Lockhart and statements and newsletters from Charleston Harbor Resort and Marina. I was not served, had no knowledge of any lawsuit or Judgment, wherefore, I the Defendant prays for an Order to Vacate Judgment as Void.

Thank you in advance for your gracious consideration in this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Paul A. Davis". The signature is fluid and cursive, with the first name "Paul" being the most prominent.

Paul A. Davis
14639 C. R. Koon Highway
Newberry, S.C. 29108
803 321 7414
davis979@gmail.com
Pro Se

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM CHARLESTON COUNTY

Court Of Common Pleas

The Honorable Mikell R. Scarborough, Master In Equity

Case No. 2009-JG-10-685

Appellate Case No.2014-001345

Charleston Harbor Resort and Marina,

Respondent

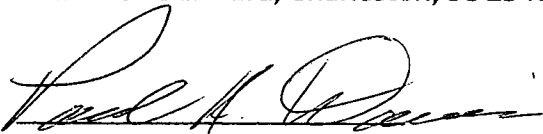
v.

Paul A. Davis,

Appellant

CERTIFICATE OF SERVICE

I hereby certify that I served The Final Brief of the Appellant on Charleston Harbor Resort and Marina by depositing a copy of it in The United States Mail, postage prepaid, on April 20, 2015, addressed to its Attorney of record, William A. Scott, PC ,Pedersen & Scott 775 St. Andrews Boulevard, Charleston, SC 29407.



Paul A. Davis Pro Se
14639 C.R. Koon Highway
Newberry, S.C. 29108
803 321 7414
davis979@gmail.com

RECEIVED
APR 21 2015
SC Court of Appeals

RECEIVED FEB 11 2009 COURT	
Charleston Harbor Resort & Marina Charleston Small Claims Court	
Plaintiff	
VS	
PAUL DAVIS	2009-SC-86-0110
Defendant	Case No:

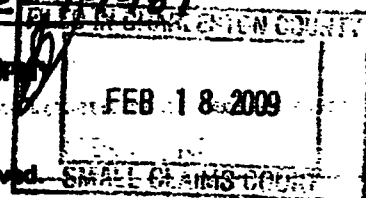
Return of Private Process Server

I Declare, that I am a citizen of the United States, over the age of eighteen (18) years and not a party to this action and within the boundaries of the State where service was affected. I was authorized by law to perform said service.

I served CORPORATE SYSTEMS, INC. - Joyce Lockart - Registered Agent with the SUMMONDS, COMPLAINT, AFFIDAVIT, NOTICE TO PLEAD AND THE MOTION FOR SUMMARY JUDGMENT, SUBPOENA, INTERROGATORIES, AND/OR:

Address: 505 Brookfield Dr, Dover, DE 19901

Date: 2/4/09 Time: 10:45



Manner of Service

- ☒ By personally delivering copies to the person authorized agent or entity being served.
- ☐ By leaving during office hours, copies at the office of the person/entity being served, leaving same with the person apparently in charge thereof.
- ☐ By leaving copies the dwelling house or usual place of abode of the person being served, with a member of the household 18 years or older and explaining the general nature of the papers.
- ☐ Copies of the document were mailed prepaid, first-class on _____ From: _____

Description - JOYCE LOCKART -

JHC-PC
6

☐ Male	☒ White Skin	☐ Black Hair	☐ 14-20 Yrs	☐ Under 5'	☐ Under 100#
☒ Female	☐ Black Skin	☒ Brown Hair	☐ 21-35 Yrs	☒ 5'0" - 5'3"	☒ 100-130#
	☐ Yellow Skin	☐ Blond Hair	☐ 36-50 Yrs	☐ 5'4" - 5'8"	☐ 131-160#
	☐ Brown Skin	☐ Gray Hair	☒ 51-65 Yrs	☐ 5'9" - 6'0"	☐ 161-200#
	☐ Red Skin	☐ Red Hair	☐ 65+ Yrs	☐ Over 6'	☐ Over 200#

NON-SERVICE: Evading _____ Unknown at address _____ Moved _____ No Forwarding Address _____
 Address does not exist _____ Service Canceled by Litigant _____ Other _____

I Declare under penalties of perjury the information contained herein is true and correct, and this affidavit was executed on: 2/4/09 (Date)

Sheila F. Cohen, Inc.
 SHEILA F. COHEN
 NOTARY PUBLIC STATE OF MARYLAND
 My Commission Expires June 8, 2010

Daniel F. DeLcollo
 Signature of Server

DANIEL F. DELCOLLO
 Print

EXHIBIT

A

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CIVIL ACTION 2009-JG-10-685

CHARLESTON HARBOR RESORT)
AND MARINA,)

Plaintiff,)

v.)

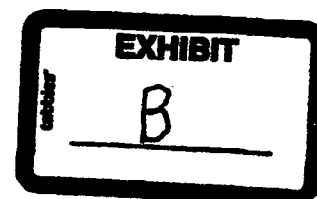
PAUL A. DAVIS,)

Defendant.)

AFFIDAVIT OF JOYCE LOCKHART

PERSONALLY APPEARED Joyce Lockhart who, first being duly sworn, deposes and says:

1. My name is Joyce Lockhart, I am a citizen of Delaware, over 18 years of age, of sound mind, and I make this affidavit of my own personal knowledge.
2. Since before 2006, I have been employed by Corporate Systems, Inc., 505 Brookfield Drive, Dover DE 19901.
3. Corporate Systems, Inc. has never been agent for Paul Davis. I have never been agent for Paul Davis.
4. Corporate Systems, Inc. has never been agent for service of process for Paul Davis. I have never been agent for service of process for Paul Davis.
5. I know Paul Davis as owner of Chesapeake Venture Corp.
6. Corporate Systems, Inc. is registered agent for Chesapeake Venture Corp.



7. The above statements are true and correct under penalty of perjury.

8. Further Affiant sayeth naught.

Joyce Lockhart
Joyce Lockhart

Sworn to and Subscribed Before Me
This 10th Day Of June, 2013.

(SEAL)

Rebecca Ann Jaksch
Notary Public for State of DE
My Commission Expires: 1-14-17

Rebecca Ann Jaksch
Notary Public
State of Delaware
Com. Exp. Jan. 14, 2017

JHC-PC
8

RECEIVED

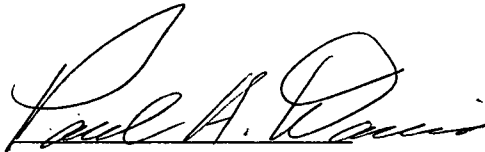
JUN 10 2015

SC Court of Appeals

Certificate of Counsel

The undersigned hereby certifies that the Certificate of Counsel for The Final Brief contains all material proposed to be included by any of the parties and not any other material.

June 8, 2015



Paul A. Davis
14639 C. R. Koon Highway
Newberry, S. C. 29108
803-321-7414
Appellant Pro Se

RECEIVED
JUN 10 2015
SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court Of Appeals

APPEAL FROM CHARLESTON COUNTY

Court Of Common Pleas

The Honorable Mikell R. Scarborough, Master In Equity

Case No. 2009-JG-10-685

Appellate Case No.2014-001345

Charleston Harbor Resort and Marina,

Respondent

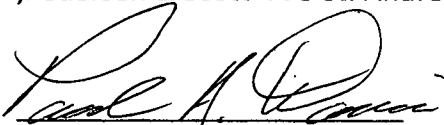
v.

Paul A. Davis,

Appellant

CERTIFICATE OF SERVICE

I hereby certify that I served the Certificate of Counsel for The Final Brief of the Appellant on Charleston Harbor Resort and Marina by depositing a copy of it in The United States Mail, postage prepaid, on June 8, 2015, addressed to its Attorney of record, William A. Scott, PC ,Pedersen & Scott 775 St. Andrews Boulevard, Charleston, SC 29407.



Paul A. Davis Pro Se
14639 C.R. Koon Highway
Newberry, S.C. 29108
803 321 7414
davis979@gmail.com