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FEB 29 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON.)

Charleston County School District,)
)
Plaintiff,)

v.)

Clemson University and City of North)
Charleston,)
)
Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CIVIL ACTION NO. 2012-CP-10-5093

**CONSENT ORDER OF
LIMITED REFERENCE
AND SCHEDULING ORDER**

FILED

2014 APR 25 AM 9:53

JULIE J. ARMSTRONG
CLERK OF COURT

BY _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

Project: Intermodal Container)
Transfer Facility)
Tract: 11)

South Carolina Department of Commerce,)
Division of Public Railways,)
)
Condemnor,)

v.)

Clemson University,)
)
Landowner,)

and)

Charleston Naval Complex Redevelopment)
Authority,)
City of North Charleston,)
Commissioners of Public Works of the City)
of Charleston,)
North Charleston Sewer District,)
BellSouth Telecommunications, Inc.,)
Business Telecom, Incorporated,)
South Carolina Electric & Gas Company,)
and Charleston County School District,)

Other Condemnees.)

CIVIL ACTION NO. 2010-CP-10-10495

The two above-captioned actions involve related matters. The first action, initiated by the Charleston County School District ("District"), involves its claim to certain real property where the District previously operated its Academic Magnet High School. The other action, which is a condemnation case initiated by the South Carolina Department of Commerce, Division of Public Railways ("Railways"), includes not only the same property at issue in the action initiated by the District, but also additional property. In the condemnation case, Clemson University ("Clemson") is listed as the Landowner in the caption, and the District is one of eight Other Condemnees.

There are several issues which are critical to deciding both of these cases. The parties all agree that in 1996, a sublease was entered into between the Charleston Naval Complex Redevelopment Authority ("RDA") and the District concerning the Academic Magnet High School. However, there are various issues about which the parties do not agree, and they are presented as follows: (1) whether the sublease expired; (2) how much property was covered by the sublease ("Property"); (3) whether the District had any rights to the Property after it was conveyed from the RDA to the City of North Charleston ("North Charleston"); (4) whether the District had any rights in the Property after the Property was conveyed from North Charleston to Clemson; and (5) whether the District had any rights in the Property at the time of the filing of the Notice of Condemnation in December of 2010.

The parties all agree that judicial economy and issue resolution consistency dictate that both cases should be stayed until these questions are answered. The parties have all also agreed that the matters at issue in this Order should be referred to a Limited Special Referee. The parties have all agreed that John Massalon, Esquire should be appointed as the Limited Special Referee, and he has agreed to this appointment. However, the parties agree this Court shall

maintain jurisdiction over and authority to hear discovery matters pertaining to these cases in the event the same should arise via Motion to Compel or otherwise even while these actions are stayed pending the outcome of the Limited Special Referee Hearing.

This list of issues to be referred to the Limited Special Referee may be amended by written agreement signed by all the parties hereto without further order from the Circuit Court. Once decided, these issues can then be applied in both the above-captioned actions. The role of the Limited Special Referee shall be to resolve only these specific issues, unless the list is expanded or limited, as set forth above. The parties recognize, and I concur, that since the purpose of this Order is to resolve specific issues which are germane to the above-captioned actions, any Order of the Limited Special Referee deciding those issues would not be appealable until the entire actions themselves are resolved by the Circuit Court.

While the parties have been conducting discovery for some time, they agree that discovery should only continue at this time on those matters relevant to this reference. To that end, they have agreed on the following scheduling deadlines:

1. The District shall identify all expert witnesses to be called in the reference hearing no later than April 4, 2014;
2. Railways, Clemson, and North Charleston shall identify all expert witnesses to be called in the reference hearing no later than April 11, 2014;
3. Discovery concerning the matters at issue in this reference shall be completed by July 12, 2014;
4. The hearing by the Limited Special Referee shall be held not before August 1, 2014;
5. Within 15 days after the Limited Special Referee has issued his final order, the

parties shall contact this Court and advise the Court as to their positions as to the impact of the Special Referee's decision on each of these cases, what issues remain in either of these cases, and a proposed scheduling order to complete discovery on those cases, including a date for mediation.

IT IS THEREFORE ORDERED THAT:

1. John Massalon, Esquire shall be appointed as Limited Special Referee in deciding the issues set forth above;
2. The scheduling deadline set forth above are adopted by this Court;
3. Both of the above-captioned actions are stayed, except for the matters assigned to the Limited Special Referee;
4. This Court shall maintain jurisdiction over and authority to hear discovery matters pertaining to these cases in the event the same should arise via Motion to Compel or otherwise even while these actions are stayed pending the outcome of the Limited Special Referee Hearing; and,
5. Within 15 days after the Limited Special Referee has issued his final order, the parties shall contact this Court and advise the Court as to their positions as to the impact of the Limited Special Referee's decision on each of these cases, what issues remain in either of these cases, and a proposed scheduling order to complete discovery on those cases, including a date for mediation.
6. The Scheduling Order may be altered or amended by written consent of all parties, with the exception of the Limited Special Referee hearing date, which shall not be altered unless ordered by the Court.

AND IT IS SO ORDERED this _____ day of April, 2014.

s/Stephanie P. McDonald

Stephanie P. McDonald
Chief Administrative Judge
Ninth Judicial Circuit

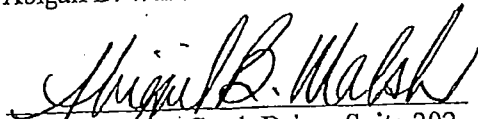
Charleston, South Carolina

April, 2014

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK OF A.G.
By Judy B. [Signature]
DEPUTY CLERK

**WE SO MOVE AND CONSENT IN
CIVIL ACTION NO. 2012-CP-10-5093:**

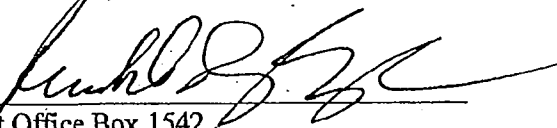
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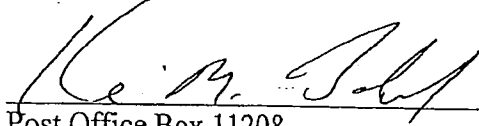
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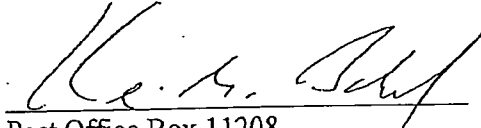
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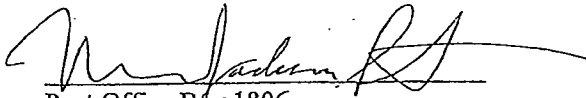
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A handwritten signature in black ink, appearing to read 'Newman Jackson Smith', written over a horizontal line.

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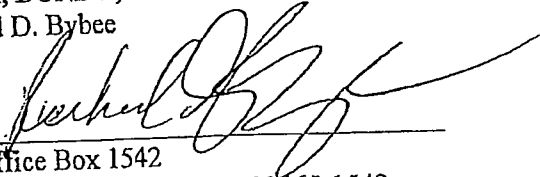
WE CONSENT:

YOUNG CLEMENT RIVERS, L.L.P.
Wilbur E. Johnson

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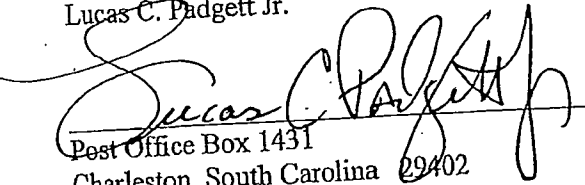
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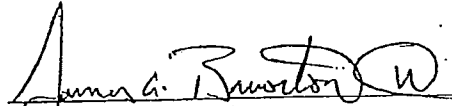
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~~David G. Jennings~~ James A. Burton IV

A handwritten signature in black ink, appearing to read "James A. Burton IV". The signature is written in a cursive style with a large, stylized "B" and "I".

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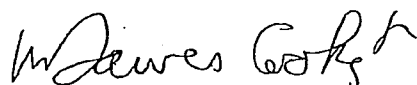
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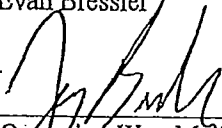
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