IN THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

MAR 2 8 2016

S.C. SUPREME COURT

APPEAL FROM BAMBERG COUNTY
Court of Common Pleas

Clifton Newman, Circuit Court Judge

Case No.: 2016-000405

Claude McAlhany, ... Respondent,

-v-

Kenneth A. Carter, Sr. d/b/a Carter & Son Pest Control,
Carter & Son Pest Control, Inc. and Erick Cogburn, ... Petitioners.

CONSOLIDATED RETURN TO PETITIONS FOR WRIT OF CERTIORARI

William F. Barnes, III
R. Alexander Murdaugh
PETERS, MURDAUGH, PARKER, ELTZROTH,
& DETRICK, P.A.
101 Mulberry Street, East
Post Office Box 457
Hampton, SC 29924
Phone: (803) 943-2111
ATTORNEYS FOR RESPONDENT

Other Counsel of Record:

James C. (Trey) Cox, III, Esquire
Trevor M. Hughey, Esquire
GRIER, COX & CRANSHAW, LLC
Post Office Box 2823
Columbia, SC 29202
Attorneys for Petitioner, Kenneth Carter

Richard Ness, Esquire
Alison D. Hood, Esquire
NESS & JETT, LLC
Post Office Box 909
Bamberg, SC 29003
Attorneys for Petitioner, Eric Cogburn

INDEX

TABLE OF AUTHORITIES

CASES

OTHER AUTHORITIES

CONSOLIDATED[1] COUNTER STATEMENT OF QUESTIONS PRESENTED

I. **DID THE COURT OF APPEALS CORRECTLY APPLY THE SUMMARY JUDGMENT STANDARD WHEN THE EVIDENCE, VIEWED IN A LIGHT MOST FAVORABLE TO MCALHANY, ESTABLISHES THAT HE DID NOT KNOW OF ANY MOLD ISSUES WITHIN THREE YEARS OF THE FILING OF THE SUMMONS AND COMPLAINT?**

II. **DID MCALHANY "MANUFACTURE" AN ISSUE OF FACT WHEN HE DID NOT SUBMIT AN AFFIDAVIT SHORTLY BEFORE THE SUMMARY JUDGMENT HEARING?**

III. **DID THE COURT OF APPEALS CORRECTLY HOLD THERE WAS SUFFICIENT EVIDENCE TO PRESENT A QUESTION OF FACT AS TO CARTER WHEN HE TESTIFIED HE WAS AWARE OF MOISTURE PROBLEMS AND CHECKED FOR MOISTURE LEVELS IN EVERY CL-100 INSPECTION?**

CONSOLIDATED COUNTER STATEMENT OF THE CASE

This petition arises from the Court of Appeals reversal of the trial court's decision to grant summary judgment on the basis that the statute of limitations expired prior to the filing of the summons and complaint on April 11, 2011. (App. pp. 5-15). The events giving rise to this action relate to Respondent, Claude McAlhany's ("McAlhany") purchase of a house from Petitioner, Erick Cogburn ("Cogburn"). In March 2007, Cogburn purchased the home located at 3633 Faust Street ("Home") in Bamberg and subsequently renovated and sold it to McAlhany in November 2007. (App. p. 21). Prior to the real estate closing, Petitioners, Kenneth A. Carter, Sr., Kenneth A. Carter, Sr. d/b/a Carter & Son Pest Control, and Carter & Son Pest Control, Inc. (collectively "Carter") issued a South Carolina Wood Infestation Report, also known as a CL-100, on October 19, 2007 based on its inspection of the Home. (App. p. 21).

[1] As most of the arguments put forth by Carter and Cogburn overlap, McAlhany submits this consolidated Return and addresses particular arguments raised by each.

On August 16, 2009, while McAlhany was painting one of the Home's interior walls, the paint roller he was using penetrated the sheetrock, releasing mold spores in the air which he inhaled. (App. p. 21). McAlhany's inhalation of the mold spores required medical treatment for the injuries he sustained. (App. pp. 22-23). As a result of discovering mold throughout the Home, McAlhany also learned that the Wood Infestation Report issued by Carter on October 19, 2007, was not performed in accordance with the South Carolina Pesticide Control Act. (App. p. 21).

McAlhany filed this action on April 11, 2011, in the Bamberg County Court of Common Pleas against Cogburn and Carter. (App. pp. 20-24). The Complaint alleges a negligence action against Carter for damage to the Home and for personal injuries McAlhany sustained. (App. pp. 21-22). Specifically, Carter was negligent in numerous ways, including failing to conduct a moisture reading test during the CL-100 inspection. (App. p. 22).

McAlhany also alleged a negligent misrepresentation cause of action against Cogburn. (App. pp. 22-23). McAlhany alleged that Cogburn "falsely represented the condition of the Home, including its propensity for water seepage, when discussing the Home's condition with [McAlhany]". (App. p. 23). As a result of Cogburn failing to disclose the Home's condition, McAlhany "incurred expenses for alternate housing, lost use of the Home, incurred medical expenses, and other actual and pecuniary damages for which Defendant Cogburn is liable." (App. p. 23).

Carter and Cogburn moved for summary judgment contending the applicable statutes of limitation barred McAlhany's claims for damage to the Home and personal injury. (App. pp. 38-41). The trial court held a hearing on these motions on July 26,

2012, at the Bamberg County Courthouse and granted summary judgment on the basis of statutes of limitation on September 13, 2012. . (App. pp. 5-15; p. 74).

McAlhany filed a Rule 59(e), SCRCP, motion on September 24, 2012, contending there was conflicting evidence as to the date when McAlhany first learned of the mold and moisture problems with the Home. (App. pp. 42-43). By granting summary judgment on the earliest possible date in light of conflicting testimony, the trial court made a factual determination that contravenes the well-established summary judgment standard of viewing the evidence in a light most favorable to the non-moving party. (App. pp. 42-43). McAlhany also argued that the statute of limitation in a personal injury action cannot accrue and begin to run until an injury is sustained. (App. pp. 42-43). The trial court's holding that both the property damage claim and personal injury claim accrued on the same date, when McAlhany did not sustain personal injuries until August 2009, is reversible error. (App. pp. 42-43). In an order filed, February 15, 2013, the trial court denied McAlhany's motion to reconsider. (App. p. 16).

McAlhany filed a Notice of Appeal with the Court of Appeals on March 18, 2013. (App. pp. 316-317). In an Opinion issued November 12, 2015, a unanimous three-judge panel reversed the trial court's grant of summary judgment. The Court of Appeals held that "[b]ecause McAlhany presented evidence that he did not discover mold within the home until June 2008 or August 2009, which would have made his lawsuit timely filed in April 2011, the trial court erred in granting summary judgment as to the property damage." (App. p. 386). The Court of Appeals also held that summary judgment was inappropriate as to McAlhany's personal injury claim, and McAlhany presented evidence supporting a personal injury claim against Carter as he was aware of water issues but

failed to check and disclose moisture levels in the October 2007 CL-100 report. (App. pp. 386-391).

CONSOLIDATED FACTS

I. COGBURN'S PURCHASE OF THE HOME LOCATED AT 3633 FAUST STREET

In March 2007, Cogburn purchased the Home located at 3633 Faust Street in Bamberg, SC, from William Ginn. (App. p. 271, lines 22-25). Cogburn is a customer service representative at a Bamberg insurance agency, and has bought and re-sold several homes around the Bamberg community. (App. p. 244, lines 10-11). The insurance agency that employs Cogburn maintained the insurance on the Home dating back to 1998. (App. p. 272, lines 2-8). In early 2007, Cogburn learned the Home would likely be for sale as the owner did not wish to continue renting it. (App. p. 270, line 19 – p. 271, line 1).

Cogburn paid Ginn $78,000.00 for the Home. (App. p. 273, lines 5-7). Prior to purchasing the Home, Cogburn had a termite inspection and South Carolina Wood Infestation Report done by Carter. (App. p. 274, lines 2-7; pp. 223-226).

II. CARTER'S WOOD INFESTATION REPORTS ON THE HOME IN MARCH 2007 AND OCTOBER 2007

Kenny Carter owns and operates Carter and Son Pest Control which does business in and around Bamberg. (App. p. 231, lines 17-18). A portion of Carter's business relates to conducting home termite inspections and issuing Wood Infestation Reports. (App. p. 236, lines 1-6). A Wood Infestation Report, more commonly known as a CL-100, is used to determine if the home has an infestation of termites, any rotten wood caused by termites, or any visible damage caused by termites. (App. p. 233, lines 20-22). Typically,

if the purchaser is borrowing money to purchase the home, the bank requires a CL-100. (App. p. 236, lines 5-13). Carter charges $100.00 for a CL-100 inspection. (App. p. 247, lines 1-2).

As part of conducting a CL-100 inspection, Carter looks for moisture and termites. (App. p. 237, lines 17-19). Moisture levels should not be above twenty-eight percent. (App. p. 238, lines 4-5). Carter uses a moisture reading probe to conduct the moisture readings. (App. p. 237, line 24 – p. 238, line 9). To get a moisture reading, the probe does not have to penetrate the wood, instead it merely touches the surface of the wood. (App. p. 239, lines 4-16). Upon touching the surface of the wood, the probe gives an immediate reading. (App. p. 229). Carter conducts moisture readings during an inspection if there is visible evidence of water damage. (App. p. 256).

In March 2007 Cogburn asked Carter to conduct an inspection on the Home because it was Cogburn's intent to resell it. (App. p. 241, lines 4-8). As a result of the inspection in March 2007, Carter advised Cogburn that the home needed to be treated for termites. (App. p. 241, line 12). Carter was aware of water issues with the Home when he first inspected it in March 2007. (App. p. 253, lines 15-17). On the March 2007 CL-100 report, Carter noted that "[d]ue to the presence of water damage to the window sills, this firm has recommended termite treatment." (App. p. 224). The report further noted that "[t]here is visible water damage to the front & rear window sills." (App. p. 224). Cogburn testified that Carter did not tell him about any water damage found during the inspection. (App. p. 295, line 22 – p. 296, line 1; pp. 305-306). Carter, on the other hand, is sure the water issues with the Home were discussed with Cogburn. (App. p. 254, lines 7-13). While conducting the inspection, Carter observed wood that was wet and rotten

and asked Cogburn to replace it. (App. p. 260, lines 21-22). On the March 2007 CL-100 report, Carter noted that the visible water damage to the front and rear window sills was "being repaired by a licensed contractor." (App. p. 224).

After Cogburn's purchase of the Home was completed, he began making repairs. (App. p. 276, lines 16-19). The repairs included, among other things, a new roof, new crown molding, new baseboard molding, new cabinet facings, tile on the kitchen backsplash, ceramic tile on the kitchen countertops, and new flooring. (App. p. 276, line 20 – p. 277, line 12). Cogburn spent approximately $35,000.00 on the repairs. (App. p. 277, lines 15-18).

III. MCALHANY'S PURCHASE OF THE HOME FROM COGBURN

Sometime following the Fourth of July in 2007, McAlhany contacted Cogburn regarding his interest in purchasing the Home. (App. p. 282, lines 14-17). McAlhany looked at the house and continued calling Cogburn every couple of weeks. (App. p. 283, lines 17-20). Cogburn's initial asking price was $149,000.00. (App. p. 285, lines 1-2). After several offers and counter-offers, Cogburn and McAlhany agreed on a $120,000.00 purchase price. (App. p. 286, lines 18-22; p. 95, lines 19-21; p. 182). McAlhany moved into the Home approximately two weeks prior to the November 5, 2007 closing. (App. p. 287, lines 6-9; p. 99, lines 19-21).

McAlhany was questioned extensively during his deposition regarding the circumstances surrounding the purchase of the Home, the events in August 2009 where he inhaled mold spores, and when he first learned of mold and moisture problems with

the Home. (App. pp. 93-181).[2] Subsequent to moving into the Home, McAlhany painted the living room, painted some upstairs rooms, and replaced a floor. (App. p. 100, lines 16-25). The room was painted "in late '08 sometime." (App. p. 102, lines 4-5). McAlhany replaced the floor about seven months after moving into the Home, in June 2008. (App. p. 155, line 14 – p. 158, line 6; p. 171, lines 3-4; p. 176, line 16 – p. 177, line 14). While replacing the floor, McAlhany did not observe any water damage or water seepage. (App. p. 159, lines 18-21). McAlhany first observed mold in the house after tearing out the first floor. (App. p. 152, lines 6-7). He cleaned it up with bleach and then installed the proper moisture barrier down underneath the floor. (App. p. 152, lines 16-17). Cogburn informed McAlhany about seven months after the June 2008 floor replacement that the property had a tendency to flood. (App. p. 158, lines 7-13). Cogburn testified that the only time McAlhany mentioned replacing a floor due to water damage was several weeks prior to August 2009. (App. p. 289, line 4 – p. 290, line 10). The first time McAlhany discovered mold was in late 2008. (App. p. 106, line 24 – p. 107, line 3). However, it could have been sometime in 2009. (App. p. 109, line 23 – p. 110, line 4).

On August 16, 2009, as McAlhany was painting a wall, the paint roller went through the sheet rock, releasing mold spores which he inhaled. As a result of inhaling the mold spores, McAlhany sustained damage to his sinuses, his eyes itched and burned, and he experienced nosebleeds. (App. p. 128, line 18 – p. 129, line 10). These injuries required medical treatment. A mold analysis report was conducted on August 24, 2009, and revealed that several organisms in the inside sitting room were classified as "ratio

[2] Portions of McAlhany's testimony are conflicting, which for the purposes of summary judgment must be viewed in a light most favorable to McAlhany as the non-moving party. Rule 56, SCRCP.

abnormality" – the report's highest level. (App. pp. 183-198). Shortly after sustaining the injuries from the mold inhalation, in August 2009, McAlhany retained an attorney. (App. p. 117, line 1 – p. 118, line 2).

Carter learned of the problems with the Home in August 2009 after receiving a letter dated August 14, 2009 from Bo Griffin with the Home Federal Savings and Loan in Bamberg regarding a bond that was given on the Home. (App. p. 248, lines 1-12; p. 263). Carter wrote Griffin a letter dated August 26, 2009 regarding the damage to McAlhany's home and whether a bond was issued. (App. pp. 264-265). In the letter, Carter stated that the Home "was treated for Mr. Cogburn in March of 2007 after active termites were found. At that time, there was also visible damage that Mr. Cogburn had repaired (scabbed on repairs)." (App. pp. 264-265). When conducting "scabbed on repairs", the whole house is not demolished but instead all rotten wood is taken out and new wood is installed. (App. p. 249, line 25 – p. 250, line 5).

ARGUMENT

In its simplest terms, the Petitions of both Carter and Cogburn ask the Court to view the evidence in a light most favorable to them, despite the well-established summary judgment standard of viewing the evidence in a light most favorable to McAlhany as the non-moving party. Rule 56, SCRCP. Carter and Cogburn want the Court to use the earliest of all possible dates, despite conflicting testimony, of when McAlhany knew of mold and moisture issues with the Home. This position can have far reaching consequences if the trial court can make credibility and factual determinations at the summary judgment stage even with conflicting testimony.

The Court should deny the Petitions as this case does not present any of the considerations set forth in Rule 242(b)(1)-(5), SCACR. There are no novel questions of law. A three-judge panel of the Court of Appeals unanimously reversed the trial court's grant of summary judgment without a dissent. The Court of Appeals' decision does not conflict with a prior decision of this Court. Neither argues there are substantial constitutional issues nor federal question as a basis to grant the Petition.

The only plausible basis put forth is that the Court of Appeals applied the discovery rule incorrectly and "improperly distinguished the Supreme Court's opinion in *Dean v. Ruscon Corp.* (321 S.C. 360, 468 S.E.2d 645 (1996))." (Cogburn Pet. P. 4). In arguing that the earliest of the dates should be used as a basis to grant summary judgment, Cogburn and Carter overlook that, for them to prevail, the Court must construe the evidence against McAlhany which is contrary to the well-established summary judgment standard. Both Petitions should be denied on this basis alone.

I. THE COURT OF APPEALS PROPERLY APPLIED THE SUMMARY JUDGMENT STANDARD IN VIEWING THE EVIDENCE IN A LIGHT MOST FAVORABLE TO MCALHANY

In reversing the trial court's grant of summary judgment, the Court of Appeals properly applied the well-established summary judgment standard by viewing the evidence in a light most favorable to McAlhany as the non-moving party. *Koester v. Carolina Rental Ctr.,* 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994). The testimony quoted below about when McAlhany first learned of any problems with the home must be viewed in a light most favorable to him..

> And anyways, he signed the papers and we, you know, let us went ahead and move in the house, and I got with Bo Griffin. I got the loan. I paid Erick. And, ***I stayed there probably about - - about almost two years, I rec[k]on, and that's when I discovered the mold and stuff.***

(App. p. 94, lines 10-15) (emphasis added).

Q. So the first time you discovered mold was in late '08?
A. ***Yeah.***
Q. Is that correct?
A. That's correct.

(App. p. 106, line 24 – p. 107, line 3) (emphasis added).

Q. Okay. So when you were saying earlier that you thought it was late '08, it actually could have been - -
A. ***In probably '09.***
Q. - - in '09. And I'm just trying to get a timeline down.
A. Yeah.
Q. I'm not trying to trick you at all, okay?
A. Yeah.

(App. p. 109, line 23 – p. 110, line 4) (emphasis added).

While not limited to mold or moisture issues, there is testimony as to when McAlhany discovered problems existed with the Home related to termites. See (App. p. 156, lines 18-20; p. 152, lines 5-7).

In its Opinion, the Court of Appeals, correctly notes McAlhany's testimony about discovery of the mold:

> At one point in his deposition, McAlhany stated he first discovered mold in August 2009. He later claimed he saw "black mold" when he first moved into the home, which would have been late October 2007, while replacing the floor on the first floor of the home. He later testified, however, that he did not replace the floor until seven months after he moved in, which would have been June 2008. ***Because McAlhany's testimony as to when he discovered mold within the home was conflicting, a question of fact existed as to this issue.*** Furthermore, the date McAlhany discovered mold in the home was a material fact because, assuming the statute of limitations was not triggered until June 2008, his lawsuit would have been timely filed in April 2011.

(App. p. 384) (emphasis added).

Petitioners argue that the Court of Appeals incorrectly applied the discovery rule and improperly distinguished *Dean v. Ruscon Corp.*, 321 S.C. 360, 468 S.E.2d 645 (1996). However, *Dean* is indeed distinguishable from the facts here. In that case, Susan Dean purchased a building in Charleston in September 1984. *Id.* at 362, 468 S.E.2d at 646. During October and November 1984, Ruscon Corporation performed pile driving activities at a nearby construction site. *Id.* In early November 1984, Dean observed a fine crack approximately three feet in length in the front right corner of the building. *Id.* As a result of seeing the crack, Dean hired a contractor and structural engineer to inspect the building. *Id.* In the summer of 1985, Ruscon resumed pile driving activities and, in August 1985, Dean noticed that the original crack had expanded. *Id.* In April 1991, Dean filed an action against Ruscon Corporation. *Id.* at 362, 468 S.E.2d at 647. Both Dean and her expert testified that the damage to the building resulted from the 1984 pile driving activities. *Id.* at 363. The circuit court directed a verdict in favor of Ruscon, concluding that, as a matter of law, Dean's lawsuit accrued in November 1984, and, by not filing until April 1991, was barred by the six-year statute of limitation. *Id.*

In affirming the trial court's directed verdict, the Supreme Court noted that the evidence "establishes that Dean acted promptly by retaining consultants in November 1984 to inspect the damage." *Id.* at 365, 468 S.E.2d at 648. More importantly, "Dean conceded that she believed the damage to her building resulted from the pile driving activities of 1984." *Id.* In this case, unlike in *Dean*, there are two claims – one for property damage and one for personal injury – and conflicting testimony that warranted reversal. McAlhany testified he was in the Home for two years before discovering mold (App. p. 94, lines 10-15); he first discovered mold in late 2008 (App. p. 106, line 24 – p.

107, line 3); or probably 2009 (App. p. 109, line 23 – p. 110, line 4). To apply the discovery rule and *Dean* to bar McAlhany's claims, the Court would have to view the evidence in a light most favorable to Petitioners. That is not the summary judgment standard and should not be applied here to bar McAlhany's claims. For these reasons, the Petitions should be denied.

II. MCALHANY DOES NOT "MANUFACTURE" AN ISSUE OF FACT AND CARTER'S POSITION WOULD HAVE MAJOR IMPLICATIONS FOR DEPOSITION TESTIMONY WHEN PEOPLE ARE MISTAKEN

In his Petition, Carter argues that McAlhany cannot "manufacture" his own issue of fact through conflicting testimony without a satisfactory explanation. (Carter Pet. pp. 11-12). As an initial matter, Carter did not make the argument that McAlhany is "manufacturing" an issue of fact to the lower court or Court of Appeals prior to its decision and, therefore, is not preserved.[3] *Kleckley v. Northwestern Nat'l Cas. Co.*, 338 S.C. 131, 138, 526 S.E.2d 218, 221 (2000) ("The negligence issue was raised for the first time in Kleckley's Petition for Rehearing and was not addressed by either the trial court or the Court of Appeals.").

Even if Carter's argument is preserved, the Court of Appeals correctly addressed this issue, relying on *McMaster v. Dewitt*, 411 S.C. 138, 767 S.E.2d 451 (Ct. App. 2014), by holding that McAlhany did not submit a "sham" affidavit shortly before the summary judgment hearing to create an issue of fact. (App. p. 385). In *McMaster*, unlike here, the deposition testimony was consistent as to when he learned of the cause of his injury. Carter's argument regarding the issue of conflicting testimony would have far reaching implications and ignores the fact that people are sometimes mistaken in their testimony

[3] Carter made this argument for the first time in his Petition for Rehearing to the Court of Appeals.

when asked about something several years later. Under Carter's position, even if an individual misspoke or was mistaken, the misstatement or mistake could still be used against them as a basis for summary judgment. This is contrary to the summary judgment standard and should not be adopted here.

III. CARTER HAD A DUTY TO CHECK FOR MOSITURE LEVELS IN THE HOME AS PART OF A CL-100 INSPECTION

Despite his testimony to the contrary, Carter argues that a CL-100 does not include a duty to disclose moisture levels. (Carter Pet. pp. 13-15). Carter does not argue this is a novel question of law nor conflicts with a prior decision of this Court. Instead, he merely takes issue with the decision reached by the Court of Appeals.

Carter could not have been clearer in his deposition about looking for moisture in CL-100 inspections:

Q. So, do you look for moisture and termites in every CL-100 inspection?

A. Yes

(App. p. 237, lines 17-19).

Carter also had knowledge of water issues with the Home when he first inspected it in March 2007. (App. p. 253, lines 15-17). On the March 2007 CL-100 report, Carter noted that "[d]ue to the presence of water damage to the window sills, this firm has recommended termite treatment." (App. p. 224). The report further noted that "[t]here is visible water damage to the front & rear window sills." (App. p. 224). Carter is sure the water issues with the Home were discussed with Cogburn. (App. p. 254, lines 7-13).

Even if the CL-100 regulations do not include a duty inspect for moisture, which McAlhany does not concede, Carter inspected for moisture in every CL-100 inspection and had knowledge of previous moisture issues with the Home. *Miller v. City of Camden*,

329 S.C. 310, 314, 494 S.E.2d 813, 815 (1997) (holding that if an act is voluntarily undertaken "the actor assumes the duty to use due care"). There is evidence in this case that Carter had knowledge of moisture problems in March 2007 and did not check for moisture issues in his October 2007 CL-100 inspection. Carter's Petition on this ground should be denied.

CONCLUSION

Carter and Cogburn's Petitions fail to articulate why this Court should exercise jurisdiction given the considerations set forth in Rule 242(b), SCACR. A unanimous three-judge panel of the Court of Appeals reversed the trial court's grant of summary judgment based on the statute of limitations by correctly applying the well-established summary judgment standard that the evidence should be viewed in a light most favorable to McAlhany as the non-moving party. Instead, Carter and Cogburn want to use the earliest of all possible dates despite conflicting testimony. McAlhany did not "manufacture" a conflict as argued by Carter, and he had a duty to inspect for moisture as he had prior knowledge of moisture issues with the Home and inspected for moisture in every CL-100 inspection. The Court should deny each Petition.

PETERS, MURDAUGH, PARKER, ELTZROTH & DETRICK, P.A.

March 23, 2016
Hampton, South Carolina

BY: 

William F. Barnes, III
R. Alexander Murdaugh
101 Mulberry Street, East
Post Office Box 457
Hampton, SC 29924
Phone: (803) 943-2111
ATTORNEYS FOR RESPONDENT

RECEIVED

MAR 2 8 2016

S.C. SUPREME COURT

IN THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM BAMBERG COUNTY
Court of Common Pleas

Clifton Newman, Circuit Court Judge

Case No.: 2016-000405

Claude McAlhany, ... Respondent,

-v-

Kenneth A. Carter, Sr. d/b/a Carter & Son Pest Control,
Carter & Son Pest Control, Inc. and Erick Cogburn, ... Petitioners.

CERTIFICATE OF SERVICE

This is to certify that I, ***Megan C. Davis***, with the Law Firm of Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A., have this date mailed via the U.S. Postal Service with first class postage prepaid, a true and correct copy of the within ***Respondent's Consolidated Return to Petitions for Writ of Certiorari*** to:

James C. (Trey) Cox, III, Esquire
Trevor M. Hughey, Esquire
Grier, Cox & Cranshaw, LLC
Post Office Box 2823
Columbia, SC 29202

Attorneys for Petitioner, Kenneth A. Carter, Sr.

Richard B. Ness, Esquire
Alison D. Hood, Esquire
Ness & Jett, LLC
Post Office Box 909
Bamberg, SC 29003

Attorneys for Petitioner, Eric Cogburn

Megan C Davis

Megan C. Davis

March 23rd, 2016
Hampton, South Carolina