

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
R. Markley Dennis, Jr., Circuit Court Judge

Case No. 2013-CP-10-4450  
Appellate Case No. 2016-000432

**RECEIVED**  
JUN 30 2016  
SC Court of Appeals

Linda A. Gibson, individually and in capacity as  
Trustee of the Paul William Gibson Family Trust;  
Heritage Seven, LLC; Seven Oaks Apartments,  
LLC; and 3205 Palm Boulevard, LLC,

Appellants,

v.

Andrew K. Epting, Jr., LLC; Andrew K. Epting, Jr.;  
George J. Kefalos, P.A.; George J. Kefalos; Gedney  
M. Howe, III, P.A.; Gedney M. Howe, III; John S.  
West, Attorney-at-Law, LL; and John S. West,

Respondents.

**RESPONDENTS' DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL**

Respondents identify and propose to be included in the Record on Appeal the following matters in which they join Appellants:

1. Order Granting Defendants' Motion for Summary Judgment filed January 5, 2016;
2. Order Denying Plaintiffs' Motion for Reconsideration filed February 5, 2016;
3. Plaintiffs' Complaint filed July 30, 2013;
4. Plaintiffs' Second Amended Complaint filed January 13, 2014;
5. Plaintiffs' Second Amended Complaint filed October 22, 2015;
6. Plaintiffs' Opposition and Cross Motion for Summary Judgment dated August 11, 2015;

7. Plaintiffs' Supplemental Identification of 702 Witness dated August 11, 2015;
8. Plaintiffs' Notice of Motion and Motion for Reconsideration and to Alter or Amend Judgment filed on January 15, 2016;
9. Deposition of Andrew K. Epting, Jr., dated September 10, 2014: 35:1-7, 43:1-5, 57:5-11, 65:1-25, 78:21-25, 75:15, 81:1-25, 110:24, 111:1-4, 145:1-11, 148:1-25
10. Deposition of Linda A. Gibson dated May 7, 2015: 108:2, 109:8 – 110:22, 152:12 – 154:23, 155:1 – 157:25, 165:7, 171:1-20, 199:15-16, 262:16-25
11. Deposition of Robert L. Papa dated April 28, 2015: 13:1-25
12. Deposition of George J. Kefalos dated September 18, 2014: 24:23, 27:10-25, 28:1-20, 71:1-5
13. Deposition of Michael Danhour dated September 9, 2015: 22:1 – 26:15, 30:1-20, 92:1-25, 94:1-25
14. Deposition of Gedney M. Howe, III, dated September 11, 2014: 9:1-15, 35:11-15
15. Deposition of John S. West dated September 11, 2014: 12:1 – 13:25
16. Affidavit of Linda Gibson dated July 30, 2013;
17. Affidavit of Desa Ballard dated November 18, 2013;
18. Affidavit of Linda Gibson dated January 12, 2015;
19. Affidavit of Michael Danhour dated August 21, 2015;
20. Affidavit of Harry A. Swagart, III, dated October 16, 2015;
21. Affidavit of Ian McVey dated October 19, 2015;
22. Affidavit of Linda Gibson dated January October 15, 2015;
23. Plaintiff's Memorandum in Opposition and Cross Motion for Summary Judgment dated August 11, 2015;
24. Callison & Tighe & Rosen Hagood Invoices dated Nov. 2010 through Jan. 4, 2011.

Respondents also identify and propose to be included in the Record on Appeal the following matters which they solely propose to be included:

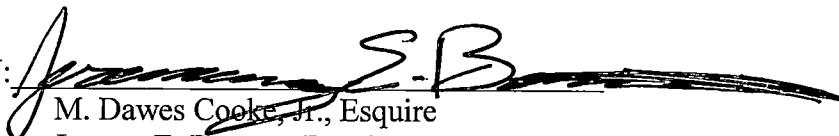
25. Order Granting Motion to Amend Complaint filed January 13, 2014;
26. Order Granting Motion to Amend Complaint filed October 29, 2015;
27. Answer and Affirmative Defenses of the Defendants to Verified Complaint filed on October 1, 2013;
28. Answer and Affirmative Defenses of the Defendants to Second Amended Complaint filed on January 28, 2014;
29. Answer and Affirmative Defenses of the Defendants to Second Amended Complaint filed on November 2, 2015;
30. Defendants' Motion for Summary Judgment filed on July 31, 2015;
31. Defendants' Memorandum in Support of Motion for Summary Judgment, including Exhibits #1 through #33;
  - a. Exhibit #1 – November 13, 2009, Papa E-mail
  - b. Exhibit #2 – November 27, 2009, Kefalos E-mail
  - c. Exhibit #3 – December 11, 2009, Papa E-mail
  - d. Exhibit #4 – December 14, 2009, Epting E-mail
  - e. Exhibit #5 – February 4, 2010, Epting Office E-mail
  - f. Exhibit #6 – April 7, 2010, Epting Letter
  - g. Exhibit #7 – Ameris Foreclosure Complaint
  - h. Exhibit #8 – July 9, 2010, Epting Letter
  - i. Exhibit #9 – Gibson Answer and Counter in Foreclosure Action
  - j. Exhibit #10 – August 12, 2010, McVey Letter
  - k. Exhibit #11 – Notice of Motion and Motion for Appointment of Receiver
  - l. Exhibit #12 – September 17, 2010, McVey E-mail
  - m. Exhibit #13 – October 18, 2010, McVey Letter
  - n. Exhibit #14 – October 25, 2010, McVey Letter

- o. Exhibit #15 – Time Records of Paul Tecklenburg, Esquire
  - p. Exhibit #16 – November 4, 2010, McVey Letter
  - q. Exhibit #17 – November 8, 2010, McVey Letter
  - r. Exhibit #18 – November 18, 2010, Fee Agreement
  - s. Exhibit #19 – Mortgage
  - t. Exhibit #20 – Fee Disbursement Statement
  - u. Exhibit #21 – Mortgage Assignment and Reduction
  - v. Exhibit #22 – Deposition Excerpts from Harry A. Swagart, III
  - w. Exhibit #23 – Deposition Excerpts from Robert Papa
  - x. Exhibit #24 – Deposition Excerpts from Andrew K. Epting, Jr.
  - y. Exhibit #25 – Time Records of Callison Tighe & Robinson, LLC
  - z. Exhibit #26 – December 8, 2010, Tecklenburg Letter
  - aa. Exhibit #27 – Ameris Bank E-mails
  - bb. Exhibit #28 – Deposition Excerpts from George J. Kefalos
  - cc. Exhibit #29 – Deposition Excerpts from John S. West
  - dd. Exhibit #30 – Deposition Excerpts from Gedney M. Howe, III
  - ee. Exhibit #31 – Deposition Excerpts from Paul F. Tecklenburg
  - ff. Exhibit #32 – Deposition Excerpts from Marvin Infinger
  - gg. Exhibit #33 – Deposition Excerpts from Michael Danhour
32. Hearing Transcript for Hearing on Motion for Summary Judgment dated October 20, 2015, before The Honorable R. Markley Dennis, Jr.

I certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully Submitted,

BARNWELL WHALEY PATTERSON & HELMS, LLC

BY: 

M. Dawes Cooke, Jr., Esquire

Jeremy E. Bowers, Esquire

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PHONE: (843) 577 - 7700

ATTORNEYS FOR THE RESPONDENTS

June 27, 2016

Charleston, South Carolina

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
R. Markley Dennis, Jr., Circuit Court Judge

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PROOF OF SERVICE

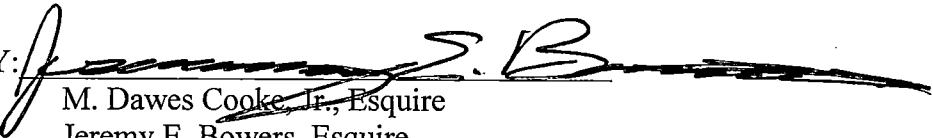
I certify that on this 27<sup>th</sup> day of June 2016, I have served on the Appellants' counsel a copy of the Initial Brief of Respondents and Respondents' Designation of Matter to be Included in the Record on Appeal by causing a copy of the same to be placed in the U.S. Mail, first-class postage paid, addressed to:

James. R. Davis, Esquire  
J. Davis Law Firm, P.C.  
BB&T Plaza, Mail Stop Box #16  
Daniel Island, SC 29492  
Phone: (843) 727-2200

Thomas A. Pendarvis, Esquire  
Pendarvis Law Offices, P.C.  
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[SIGNATURE BLOCK ON THE NEXT PAGE]

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1938-2013

Attorneys for businesses & professionals since 1938

**Jeremy E. Bowers, Associate**  
jbowers@barnwell-whaley.com

June 27, 2016  
Via U.S. Mail

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

**RECEIVED**

JUN 30 2016

**SC Court of Appeals**

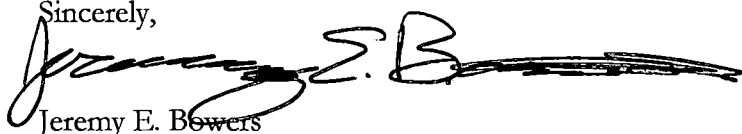
RE: Linda A. Gibson, et al. v. Andrew K. Epting, Jr., et al.  
Appellate Case No.: 2016-000432

Dear Ms. Kitchings:

Please find enclosed an original and one copy of the Respondent's Initial Brief and Designation of Matter for Inclusion in the Record on Appeal in the above-referenced appeal. Please file the originals and copies, and please return the filed stamped copies to me in the self-addressed stamped envelope provided herein.

By copy of this letter, I am serving counsel for the Appellant with a copy of the Respondent's Initial Brief and Designation of Matter for Inclusion in the Record on Appeal in accordance with the enclosed Proof of Service. If you have any questions, please do not hesitate to contact me at (843) 577-7700. Thank you for your cooperation in this matter. With kind regards, I am

Sincerely,



Jeremy E. Bowers

cc w/encl.: James R. Davis, Esquire  
Thomas A. Pendarvis, Esquire

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REPRESENTING CLIENTS IN ALL COURTS IN SOUTH CAROLINA AND NORTH CAROLINA AND IN THE UNITED STATES PATENT AND TRADEMARK OFFICE