

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Letitia H. Verdin, Circuit Court Judge

Case No.: 2014-CP-23-5266
Appellate Case No.: 2015-001667

Blanche G. Creswell,.....Appellant,

v.

Robin Culbertson and Chip Culbertson d/b/a Asheville Cotton Company, and
Asheville Cotton Company,.....Respondents.

REPLY BRIEF OF THE APPELLANT

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Argument

The parties agree in this matter that the applicable legal question is whether requiring the Defendant corporation to appear and defend this matter in South Carolina, involving a serious injury to a South Carolina resident, violates due process (Defendants' Brief at 8). Plaintiff submits that requiring Defendant to defend this matter just fifty miles from its store is not a violation of due process given Defendant's contacts with the State of South Carolina.

Defendants' Brief takes too narrow of a view and relies inappropriately on cases involving only passive websites. Simply stated, this is not a mere "passive website" case, rather Defendants' contacts are much more than those involved in a passive website case.

The evidence shows substantial and intentional contact with the State of South Carolina. None of this evidence was discussed or addressed by the trial court in the very short four sentence Order dismissing this case. (Order, ROA pp. 1-2). Nevertheless, the evidence establishes the necessary substantial contacts with South Carolina.

Defendants e-mail list shows two hundred seventy-three customers in South Carolina. (Robin Culbertson Deposition, Exhibit 2, ROA pp. 89-94). The records themselves show where the customers are located. Defendant regularly and continuously send emails every three weeks to solicit the South Carolina customers to come to the North Carolina store for sales and classes taught in the store. (Robin Culbertson Deposition, pp. 41 to 44, ROA pp. 67 to 70). This would be reaching out to two hundred seventy-three customers every three weeks, or over 4,700 solicitations per year directed to South Carolina residents.

Defendant also shipped more orders to South Carolina than any other state besides its home state of North Carolina (Robin Culbertson Deposition, Exhibits 1 and 2, ROA pp. 88 to 94). The

shipments to South Carolina comprised fourteen percent of the total shipments, and twenty-five percent of all shipments outside of North Carolina.


The Defendant also made one live presentation in Landrum, South Carolina to South Carolina residents, and advertised for six years on the television station that broadcasts directly into upstate South Carolina.

Conclusion

The exercise of jurisdiction of this matter over the company Defendant is reasonable, fair, and does not violate traditional notions of fair play and substantial justice. Defendant should not be able to solicit customers to drive less than fifty-five miles from Greenville to its store, yet not be required to make the same short trip to defend this action. Plaintiff's medical treatment occurred here, and at least the corporate Defendant should be required to appear and defend this matter in South Carolina.

Accordingly, it is requested that the Order dismissing this action be reversed.

Respectfully submitted,



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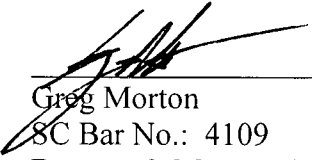
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CERTIFICATE OF COUNSEL

The undersigned hereby certified that this Reply Brief of the Appellant complies with Rule 211(b) SCAR.



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