

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas  
D. Garrison Hill, Circuit Court Judge

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JUN 20 2016

Appellate Case No.: 2015-000476

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SC Court of Appeals

David Wilson, individually and derivatively on behalf of Carolina Custom Converting, LLC,  
Plaintiff,

v.

John Gandis, Andrea Comeau-Shirley, Zoi Films, LLC, and Carolina Custom Converting, LLC,  
Defendants,

John Gandis and Andrea Comeau-Shirley, Third-Party Plaintiffs,

v.

Carolina Custom Converting, LLC, Third Party Defendant and Counterclaim Plaintiff,

v.

Dave Wilson, Steve Norvell, Neologic Distribution, Inc. and Fresh Water Systems, Inc.,

Of Whom David Wilson, Neologic Distribution, Inc., and Fresh Water Systems, Inc., are the  
Respondents,

and

John Gandis, Andrea Comeau-Shirley, and Carolina Custom Converting, LLC, are the  
Appellants.

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SUPPLEMENTAL RECORD ON APPEAL

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**INDEX**

Transcript of Record dated June 24, 2014, pages 36-39.....1  
Certificate of Counsel.....5

1                   **MR. STEPHENSON:**       If you look at Tab Q, you'll see it's a email  
2                   from Andy Arnold to Lee and Andy Goldsmith, "We're headed toward a  
3                   hearing to divide the company up. We've given them our financials."

4                   Out of the blue, Andy Arnold says "My client will agree to buy John's  
5                   and Andrea's interest for 55% or \$442,000..." and he talks about how he came  
6                   up with it.

7                   Our side got it. They said, "Okay, let's do it." They agreed. There was  
8                   some — some contingencies. They were complied with.

9                   A few weeks later, we show up at a mediation before mediator Frank  
10                  Gibbs (phonetic); all of a sudden the buyout is off the table.

11                  Well, now we know why. The whole thing was a ruse by Wilson and  
12                  Andy to gain some advantage in this case.

13                  Again, these are emails we just got.

14                  Andy wants to talk about bad faith in this case, well, again, this is an  
15                  email from Dave Wilson to his co-conspirator Norvell, "Andy thinks we should  
16                  make an offer to buy John's and Andrea's interest based on the values they've  
17                  given us and their obviously manipulated finance — financials. They won't  
18                  take it."

19                  So this was not in good faith. And, Your Honor, I want to point out Tab  
20                  P in the book. Now, I was not involved, but this is December the 6<sup>th</sup>, 2012.  
21                  And this is part of the transcript of the hearing.

22                  If you'll look at Page 7, Andy represents to this Court that he made an  
23                  offer to buy our side out. Implicit in any representation to the Court is that it  
24                  was in good faith.

1                   Interestingly, he says, "They haven't accepted or rejected our offer  
2 yet..." We accepted it. "But we think that this business has value. We don't  
3 want to dissolve the entity unless it's absolutely necessary."

4                   That's what he says at the time in contrast to what he says now. Since  
5 that time, Mr. Wilson has testified this was a serious offer. My partner, co-  
6 conspirator, brother-in-law Norvell, was going to put up the money.

7                   Well, that's not true. If you look at Tab S, Your Honor, you'll see part of  
8 Steve Norvell's deposition. Tell me when you get there.

9                   **(Brief Pause)**

10                  **THE COURT:**        Okay. Yes, sir.

11                  **MR. STEPHENSON:**    Page 118.

12                  **THE COURT:**        All right.

13                  **(Brief Pause)**

14                  **MR. STEPHENSON:**    I took his deposition. "Steve, did there  
15 come a time that you looked at acquiring Triple C? " "Did I look into it? I  
16 briefly considered it."

17                  "Did you actually consider it enough to come up with a price? "

18                  "Not that I'm aware of." "Did you even look at any number?" "Not that I'm  
19 aware of."

20                  Down on Page 119, "I would never consider buying Triple C." In other  
21 words, he had some brief conversation with Wilson. They come up with this  
22 fake offer. There was no money to buy it, to gain some advantage in this  
23 case. The whole thing was not true, a ruse.

24                  **THE COURT:**        What is a Chinese equipment (phonetic)?

1                   **MR. STEPHENSON:**       I don't know, you'll have to ask him. But the  
2 import is, there was no offer. This was made up to try to get the advantage.

3                   Now, I talked about this destruction of evidence. And Andy has talked  
4 all around that. Let me tell you what really happened, Your Honor.

5                   It's January of 2012, okay, after this hearing -- before this hearing, two  
6 months before this hearing, everybody has lawyered up, okay?

7                   Lawsuits had not been filed yet. He's still there. He's got Craig  
8 Jennings (phonetic) as his lawyer. They've got a fellow in Atlanta name John  
9 Zamer (phonetic), a family friend.

10                  We get word that he is going to compete and -- going to quit and  
11 compete with us.

12                  He says he's going to call -- make us go into liquidation. They are in a  
13 huge fight. They say he was fired; we say he was quit. Not important.

14                  Cops were called, okay? Cops were called. And, if you look at Exhibit  
15 H, you'll see the affidavit of our forensic guy that he wiped two computers. He  
16 intentionally wiped two computers.

17                  Andy wants to say "Oh, he just took the information off." He wiped two  
18 computers and he now says he still has it.

19                  We don't know. He wiped a blackberry.

20                  Now, why did he do that? We know part of it. He didn't want us to get  
21 his emails.

22                  Later he tells people to destroy emails. We say that he trashed the  
23 company. We say he's stolen trade secrets. We say he's violated this Court's  
24 order.

1           Andy wants the QuickBooks, okay? We gave him the electronic  
2 QuickBooks. There's an order from this Court that says because the  
3 electronic QuickBooks has customer names on it and vendor names on it,  
4 that, if he uses those customers or vendors after it's provided, it's going to be  
5 presumed that he used it improperly.

6           In other words, if he's already doing it, fine. We believe we're going to  
7 be able to prove that he used vendors and customers after we provided the  
8 QuickBooks. So there's no — there's no surprise that we don't want to give  
9 them to him again.

10           We'll give them financials, but were not going to give him the names of  
11 our customers and vendors.

12           Which brings me around to the remedy. Well, we now know why they  
13 want this remedy. They're wanting to kill their competitor and then pick it up  
14 cheap.

15           There are all sorts of remedies in these cases. As Your Honor may  
16 know, I was in the case, the seminal case, Crackidy (phonetic). And you had  
17 fraudulent conduct in there if there ever was.

18           Well, the Court didn't order that the company be dissolved. It ordered  
19 that the majority buy the minority out. Big brother had to buy little brother out.

20           *Ballard vs. Robinson*, the most recent case, the majority had to buy the  
21 minority out. And we cite a number of cases involving the LLC statute, which  
22 is similar.

23           There was a case called *Henley vs. Leath* (phonetic) where they —  
24 where the Court, Judge Anderson, Judge Joe Anderson, talks at length about

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CERTIFICATE OF COUNSEL

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The undersigned certifies that the Supplemental Record on Appeal contains material proposed to be included by any of the parties and not any other material.

June 17, 2016

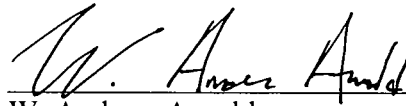
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SC Court of Appeals

Respectfully submitted,

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**PROOF OF DELIVERY**


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I certify that I have served the Supplemental Record on Appeal by depositing a copy of  
the same in the United States Mail, postage prepaid, on June 17, 2016, addressed to the attorneys  
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