THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

Robin B. Stilwell, Circuit Court Judge

Case No. 2006-CP-39-1826

RECEIVED
APR 27 2016
SC Court of Appeals

J. Scott Kunst ....Respondent,

v.

David Loree ....Appellant.

FINAL REPLY BRIEF OF APPELLANT

V. Elizabeth Wright (SC Bar ID 76029)
V. ELIZABETH WRIGHT LAW FIRM, LLC
217 E. Park Avenue
Greenville, SC 29601
(864) 326-5281
bethwrightattorney@gmail.com

Gregory K. Smith (admitted *pro hac vice*)
King & Spaulding, LLP
1180 Peachtree Street
Atlanta, GA 30309
(404) 572-2858
GKSmith@kslaw.com

Attorneys for the Appellants

Other counsel of record:

J. Scott Kunst, *pro se*
130 Arabian Way
Simpsonville, SC 29681
(864) 979-7961

Respondent

Table of Contents

Table of Contents i

Table of Authorities ii

Introduction 1

Argument 1

I. Kunst's initial brief contains numerous instances of lack of support from the record and instances when citations to the trial transcript are misquoted. 1

A. Kunst's examples of what the jury heard are not cited. 2

B. The Welmaker and Miller Orders 4

C. Kunst's Portrayal of Appellant David Loree 5

II. Kunst offered no support from the trial record to show he preserved the elements of slander *per se* 6

A. Crimes of moral turpitude 6

B. Unfit for business or profession 8

III. Kunst never proved Loree abused the defense of qualified privilege 9

IV. Loree established that the alleged defamatory statements were true 11

V. The damages awarded by the jury were not appropriate 12

Conclusion 13

Table of Authorities

South Carolina Case Law

Bell v. Bank of Abbeville, 208 S.C. 490, 38 S.E.2d 641 (1946) 6

Constant v. Spartanburg Steel Products, Inc., 316 S.C. 86, 447 S.E.2d 194, (1994) 9-10, 11

Goodson v. Am. Bankers Ins. Co., 295 S.C. 400, 368 S.E.2d 687 (Ct. App. 1988) 1

Goodwin v. Kennedy, 347 S.C. 30, 552 S.E.2d 319 (Ct. App. 2001) 9

Hill v. Dotts, 345 S.C. 304, 547 S.E.2d 894 (Ct. App. 2001)................. 1

Holtzscheiter v. Thomson Newspapers, Inc. 332 S.C. 502, 506 S.E.2d 497 (1998).. 6

Murray v. Holnam, 344 S.C. 129, 140, 542 S.E.2d 743 (Ct. App. 2001). 10

Nash v. Sharper, 22 S.C. 451, 93 S.E.2d 457 (1956) 8-9

Parrish v. Allison, 376 S.C. 308, 656 S.E.2d 382 (Ct. App. 2007) 12

Wardlaw v. Peck, 282 S.C. 199, 318 S.E.2d 270 (Ct. App.1984) 9

South Carolina Appellate Court Rules

Rule 208 (b)(4)... 1

Introduction

Respondent J. Scott Kunst ("Kunst"), though a *pro se* litigant, has had considerable trial and appellate experience in the courts of South Carolina. For example, he filed thirteen separate defamation cases connected with the dissatisfied clients of his concern Kunstwerke. Mr. Kunst also appealed the trial court's finding he was in default in the action *Gaby v. Kunst and Kunstwerke*, civil action number 2006-CP-23-2943. In this case, Kunst appealed the trial court's summary judgment order of 2010 and the order was reversed and remanded. Therefore, Kunst is familiar with the South Carolina Appellate Court Rules and Rule 208(b)(4), SCACR, which requires citations in the brief from the trial transcript and other materials to support the facts. Though allowed great latitude by the trial court, (R., p. 104, Tr. p. 76: 4-5), Kunst is still held to the same standard in regard to legal proceedings as an attorney. See *Hill v. Dotts*, 345 S.C. 304, 310, 547 S.E.2d 894, 808 (Ct. App. 2001) citing *Goodson v. Am. Bankers Ins. Co.*, 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct. App. 1988). Kunst's Initial Brief cited as evidence items which are not part of the record, cited documents that were never admitted into evidence and blatantly misstated evidence. Kunst's brief is filled with hyperbole and *ad hominem* attacks, but wholly fails to rebut the fact that there was insufficient evidence in the admitted evidence in the record to sustain the jury's verdict.

Argument

I. Kunst's initial brief contains numerous instances of lack of support from the record and instances when citations to the trial transcript are misquoted.

Loree naturally expects Kunst to have a different view of the trial and its outcome, but Kunst's utter disregard for Rule 208(b)(4), SCACR creates a distorted and misleading

brief which causes confusion. In an effort to reduce confusion created by Kunst's ignoring the rules of appellate procedure, Loree first addresses issues that may cause confusion for the Court if left unsubstantiated by correct references to the trial transcript and other authorities.

A. Kunst's examples of what the jury heard are not cited.

In his Respondent's initial brief, Kunst listed several examples of evidence the jury heard that he argued established Loree's liability. (*See* Resp. Br. At 11-14). However, Kunst's items 1, 3, 4, 6, 7, 8, 13 and 14 are not supported by any cite to the record evidence. Kunst cited no record evidence that the Kunstwerke accounting records for the alleged 908 invoices nor email exchanges between Kunst and Richard Gaby concerning how much Gaby owed were ever admitted into evidence at trial. *See* Resp. Br. At 11-12. There is no citation to record evidence to show that the jury saw the "float" email from Gaby or that Kunst refunded any money to Gaby. *See* Resp. Br. At 12.

To further confound the issues created by Kunst's brief, item 7 concerns the damages hearing in the *Gaby v. Kunst and Kunstwerke* action and has no bearing on this case. (*See* Resp. Br. At 12-13). Additionally, there is no record evidence to establish that the "reconciliation" referenced by Kunst in his item 8 was admitted into evidence at trial.

The title page of the trial transcript (R., p. 91, cover page trial transcript) lists Plaintiff's (Kunst) exhibits admitted into evidence at trial. Even a cursory review of the trial transcript shows that the following documents were never admitted into evidence:

- All accounting records (Plaintiff's Ex. 13) is described as an accounting spreadsheet and on pg. 323, lines 6-8, Kunst informs the trial court that they are four pages from accounting records);

- no emails between Kunst and Gaby concerning a reimbursement contract
- no emails concerning a "float"
- no final Gaby account billing;
- no unreimbursed Kunstwerke weekly billings; and
- no draw schedule.

As these documents, cited by Kunst, were never introduced into evidence, the jury could not have considered these documents. Hence, it is illogical and not proper for Kunst to attempt to use these documents to uphold the jury's verdict.

Given that Kunst has misled this Court about which documents were admitted into evidence and hence which documents the jury saw, Appellant had to confirm the accuracy of Kunst's descriptions of the documents which were admitted into evidence. In item 2, Kunst stated the jury heard Richard Gaby admit he had not paid all of his weekly reimbursement billings. *See* Resp. Br. at 12. Mr. Gaby was not present at trial and Kunst published portions of Gaby's deposition. The portion of Mr. Gaby's deposition read into the record at trial actually reads, "I paid every invoice that was submitted to me other than the last one". (R., 208, Tr. Testimony of Richard Gaby, p. 489: 7-8).

In item 8 Kunst stated that the jury heard a witness to a meeting between Kunst and Loree in which Loree stated he thought he could get the weekly statements paid. (*See* Resp. Br. at 12). That was Tracey Hilton's testimony. However, Ms. Hilton did not state in the cited example that the statements were never paid as the parenthetical in Kunst's brief indicates.

In item 9 Kunst quoted from Loree's testimony and spun Loree's testimony to make it sound as if Loree was not intelligent enough to conduct an investigation. What Loree actually testified in that section was that the Stern Law Firm[1] took over the investigation from Loree and used a forensic accountant to go over the records. (R., p. 153, Tr. Testimony of David Loree, p. 269: 12-20).

Of the fourteen examples cited by Kunst regarding evidence in the record that supported the jury's verdict, only three of the fourteen examples are substantiated by the trial transcript: item 10 in which Kunst testified that his accounting records were complete, objective and existed from the time the transaction occurred; item 11 concerning Kunst's default in the *Gaby v. Kunst and Kunstwerke* action, and item 13 concerning Kunst's efforts in the *Gaby v. Kunst and Kunstwerke* in litigating it all the way to the Supreme Court. None of the examples cited by Kunst which are actually in the record of evidence before this Court have anything to do with the slanderous statements allegedly made by Loree nor upholding the jury's verdict.

B. The Welmaker and Miller Orders.

Kunst referenced footnote 5 in the Appellant's Initial Brief and claimed "blatant falsehood" (Resp. Br., at. 7) and "rerun of failed collateral estoppel attempt" (Resp. Br. at 8). A simple review of the trial transcript shows that, as Kunst was testifying, he was handed two orders at the same time - the Welmaker Order of 2007 in the *Gaby v. Kunst and Kunstwerke* case and the Miller Order of 2010 in this case. (R., p. 199, Tr. Testimony of J. Scott Kunst, p. 455-456, R., p. 742 and 756, Defense exhibits 24 and 25).

---

[1] What Mr. Loree calls the Stern Law Firm was actually Covington, Patrick, Hagins, Stern & Lewis, P.A. The former lead counsel T. S. Stern, Jr. was a partner at Covington Patrick until he suffered a stroke in January of 2015. The author of this brief was Mr. Stern's associate.

This led to some confusion when reading the trial transcript as to which order Kunst claimed had been reversed and remanded.

To be clear, the Miller order was reversed by this Court. However, this Court's opinion shows that the Court opined only regarding collateral estoppel, holding that the doctrine of collateral estoppel was not applicable in instances of default. (R., p. 756, Defense Ex. 25). As Loree questioned Kunst about the accusations Kunst had made against Judge Miller and other South Carolina judges, the trial court admitted Judge Miller's order into evidence. (R., pgs. 200-201, Tr. Testimony of J. Scott Kunst, pgs. 460-62). As Kunst has done for the past decade, in the Respondent's brief, Kunst attempted to impugn the bench and bar for perceived slights.

C. Kunst's portrayal of Appellant David Loree

While it is understandable that Kunst would have an uncharitable opinion regarding David Loree, he is under a duty to this Court to cite only record evidence. As further examples of Kunst's lack of candor with this Court, Kunst cited the trial transcript to show that Loree was a "bodyguard." (Resp. Br. at 30). If the Court examines the trial transcript, it is clear that Loree testified that he is an "executive protection coordinator/property manager" (R., p. 125, Tr. Testimony of David Loree, p. 157: 16-17). Kunst also referred to Loree as "maliciously posing as a former detective". (Resp. Br. at 3). The record evidence does not support Kunst's assertion. In fact, the record evidence shows that Loree testified that he did not represent himself as a detective. (R., p. 125, Tr. Testimony of David Loree, p. 160: 3-4).

While some of the mis-citations and unsupported "facts" may seem small, taken in totality, Respondent's Brief paints a picture of the record evidence in this matter that

simply does not exist. The unsupported and mis-supported "facts" in Kunst's brief are legion, creating confusion and distorting the true record before this Court.

II. Kunst offered no support from the trial record to show he proved the elements of slander *per se.*

To prove slander *per se*, Kunst must show with a preponderance of evidence that Loree charged Kunst with commission of a crime of moral turpitude, contraction of a loathsome disease, adultery, unchastity, or unfitness in his business or occupation. *See Holtzscheiter v. Thomson Newspapers, Inc.* 332 S.C. 502, 510, 506 S.E.2d 497, 505 (1998).

A. Crimes of moral turpitude

Two of the alleged statements indicate that Loree accused Kunst of the crime of embezzlement. (R., p. 39, Plaintiff's pre-trial brief "The Plaintiff embezzled $400,000 from the Gabys" and "The Plaintiff embezzled money from all his clients."). Embezzlement, due to the breach of trust element, is a crime of moral turpitude. *Bell v. Bank of Abbeville*, 208 S.C. 490, 496, 38 S.E.2d 641, 644 (1946) (an allegation charging the plaintiff with larceny or breach of trust was actionable *per se*). Kunst quoted statements from the affidavits of Charles Goad and Glenn Alfonzo (Resp. Br. at 15-17) yet none of the statements referenced "embezzlement." Kunst limited himself to the alleged defamatory statements in his pre-trial brief. There is no record evidence that Loree accused Kunst of embezzlement. In fact, the record evidence shows the opposite. Kunst himself questioned Loree, under oath at trial, and asked:

Q Do you have any evidence that I embezzled money from any other client other than the Gaby's?

A No, sir.

Q Do you have any evidence that I embezzled money from the Gaby's?

A We have a judgment against you of funds that were unpaid by you to vendors relative to their project.

(R., p. 131, Tr. Testimony of David Loree, p. 182:17-23).

The other evidence in the record regarding whether Loree accused Kunst of embezzlement comes from Kunst's fiancé and witness, Tracey Hilton:

Q Okay. Now, did Mr. Loree ever tell you that Mr. Kunst embezzled $400,000 from the Gaby's?

A No. He never spoke to me except for at that meeting, probably.

(R., p. 114, Tr. Testimony of Tracey Hilton, p. 116:15-18).

Loree's unrebutted testimony was:

Q Did you tell anyone on that list that Mr. Kunst had embezzled money from his clients?

A No, sir.

(R., p. 148, Tr., Testimony of David Loree, p. 251:2-4).

Kunst himself testified under oath that he knew there is no evidence admitted at trial that showed Loree ever accused Kunst of "embezzlement": "I don't think there's the word embezzle in any of the affidavits that are admitted into evidence here." (R., p. 196, Tr., Testimony of J. Scott Kunst, p. 441:9-11). In fact, when asked if Loree had ever

called Kunst a "crook," Kunst testified that "There's no evidence here today stating that." (R., p. 197, Tr., Testimony of J. Scott Kunst, p. 445:23-446:1).

The record is clear: Kunst produced no evidence that Loree stated to a third party that Kunst had committed a crime of moral turpitude. Because Kunst failed to prove his cause for slander *per se*, the jury verdict should have been overturned as a matter of law.

B. Unfit for business or profession

Kunst also discussed the slander *per se* element of unfitness in one's business or profession. (Resp. Br. at 35-37).[2] It is undisputed that none of the alleged slanderous statements impugn Kunst's fitness to design or build homes.

Kunst stated in his opening statement that he was an "architectural design artist" and "craftsman." (R., p. 105, Tr. 78: 4-8).[3] Loree's unrefuted testimony established that Loree never told anyone that Kunst was a bad designer, and, in fact, he commended Kunst during trial on his home designs. (R., p. 149, Tr., Testimony of David Loree, p. 254:2-14).

While Kunst advocated for the expansion of South Carolina law on defamation, he cited no cases that evinces any court or legislature agreeing with Kunst's overly broad interpretation. In fact, Kunst is unable to provide any authority that Appellant's interpretation of being unfit in business or occupation is too narrow. Kunst cited *Nash v.*

---

[2] In that discussion, Kunst continues to cite to items that are not in the record before this Court. For example, no documents from the American Dental Association or the South Carolina LLR were admitted as evidence during the trial.

[3] It was established in trial that Loree complained about how Kunst accounted for money the Gabys sent to Kunst to pay subcontractors and suppliers. (R., p. 140, Tr. Testimony of David Loree, p. 220:16-21 and R., p. 141, Tr. Testimony of David Loree, p. 221: 5-13). It is undisputed that Kunst is not a Certified Public Accountant. Defense exhibit 13 (the revocation of Kunst's CPA license) establishes that Kunst was not a CPA during the time in question. (R., p. 396, Defense exhibit 13).

Sharper, 22 S.C. 451, 93 S.E.2d 457 (1956) to show that imputations of conduct incompatible with one's trade is actionable without pleading special damages. However, *Nash* supports Loree because there is no evidence in the record Loree made any imputations incompatible with Kunst's occupation as a designer of homes. Kunst also cited *Goodwin v. Kennedy*, 347 S.C. 30, 36, 552 S.E.2d 319, 322-23 (Ct. App. 2001) as support, but *Goodwin*, too, supports Loree's position. In *Goodwin,* the Court of Appeals held that the defendant's remarks were defamatory because they related to how Goodwin reacted with students at the school where he served as assistant principal, which was his business or occupation.

Kunst cited *Wardlaw v. Peck*, 282 S.C. 199, 318 S.E.2d 270 (Ct. App.1984) to argue that the jury could have inferred Loree's alleged statements concerning the arrears in the accounting for the Gaby home project concerned Kunst's unfitness for his occupation, but Kunst misses the point. Because Kunst failed to prove the elements of slander *per se*, the jury's verdict is not based on the law and should be overturned.

With regard to "unfitness" in his occupation, the record is clear: Kunst produced no evidence that Loree ever impugned Kunst as a designer or builder. Because Kunst failed to prove his cause for slander *per se*, the jury verdict should have been overturned as a matter of law.

III. Kunst never proved Loree abused the defense of qualified privilege

Qualified privilege is a communication made in good faith on any subject matter in which the person communicating has an interest or duty if made to a person with a corresponding interest or duty even though it contains matter, which, without this privilege, would be actionable. *Constant v. Spartanburg Steel Products, Inc.*, 316 S.C.,

86, 88, 447 S.E.2d 194, 196 (1994). One publishing under a qualified privilege is liable upon the proof of actual malice, meaning the defendant acted recklessly or wantonly or with a conscious disregard of the plaintiff's rights. *Id.*

One who publishes defamatory matter concerning another is not liable for the publication if (1) the matter is published upon an occasion that makes it conditionally privileged and (2) the privilege is not abused. *Murray v. Holnam*, 344 S.C. 129, 140, 542 S.E.2d 743 (Ct. App. 2001). When one has an interest in the subject matter of a communication, and the person to whom it is made has a corresponding interest, every communication honestly made, in order to protect such common interest, is privileged by the occasion. The statement must be such as the occasion warrants and must be made in good faith to protect the interests of the one who makes it and the persons to whom it is addressed. *Murray, id.*

It is undisputed that Loree established that he was acting on behalf of his employer in investigating the Gaby construction project managed by Kunst. (*See* App. Initial Br. at 10-13). While Respondent argues otherwise, he cites no legally sufficient record evidence in his brief in support. Kunst shows a fundamental misunderstanding of the law of agency. For example, Kunst argues that Loree could not be an agent for the Gabys because Loree's paycheck came from a corporate entity owned by the Gabys, instead of Mr. or Mrs. Gaby themselves. (*See* Resp. Br. at 30). Further, Goad was not a "stranger" to the Gaby project, as Kunst alleges. *id.* Kunst himself established that Goad was a supplier on the Gaby project. (R., p. 115, Tr., Testimony of Charles Goad, p. 120:18-20).

In order to meet his burden of proof that Loree abused the scope of the qualified privilege, Kunst has to prove actual malice by Loree. *See Constant* at 196. There is absolutely no evidence in the record to show that Kunst even attempted to prove actual malice by Loree.

Even assuming *arguendo* that every alleged defamatory statement was made (which they were not), Kunst's witnesses Goad, Alfonzo and Covington show in their testimony that Loree only spoke to vendors working on the Gaby project or others with whom Kunst was working to investigate why so much money was missing from the Gaby project. Loree did not speak to the public in general nor with anyone not associated with Kunst's projects - and then Loree addressed only the accounting issues and whether the vendors had been paid.

Loree established that he was acting under the qualified privilege associated with the investigation of his employers' construction project. There is no evidence in the record to refute that. Further, there is no evidence in the record to show that Kunst proved that Loree acted with actual malice toward Kunst. Hence, the jury's verdict must be set aside a matter of law.

IV. Loree established that the alleged defamatory statements were true.

Loree proved the truth of the alleged defamatory statements in the following instances:

- The 2007 Order of Judge Welmaker in which he found that the Gabys established Kunst had taken money from the Gaby project. (R., p. 737, Defense Ex. 23).

- Defense exhibits 2-9 which showed Kunst had taken money from the project. (R., p. 371-391, Defense Exhibits 2-9).
- Loree's testimony on his findings in his investigation. (R., pgs. 141-147, Tr. Testimony of David Loree, pgs. 223-245).
- Covington's testimony in regards as to Kunst taking money from his project. (R., p. 156, Tr. Testimony of Eugene C. Covington, p. 282: 19-25 and R., p. 157, Tr. Testimony of Eugene C. Covington, p. 283: 25).

Because Loree proved the defense of truth, the jury verdict should be set aside as a matter of law.

V. The damages awarded by the jury were not appropriate

As an initial matter, Kunst never pleaded for special damages in his complaint. (R., p. 27, Complaint). Second, Kunst overlooked the point that because he never proved the elements of slander *per se*, he must prove special damages. *See Parrish v. Allison*, 376 S.C. 308. 656 S.E.2d 382 (Ct. App. 2007).

Further, Kunst claimed he was entitled to damages to cover the costs of removing his tax liens. (R., p. 175, Tr. Testimony of J. Scott Kunst, p. 358: 1-18 and R., p. 215, Tr. Testimony of J. Scott Kunst, p. 518: 11-19). The tax liens date back to 2003, three years before Kunst even met Loree, so Loree cannot be liable for those damages. Kunst claimed he was entitled to damages for the judgments he has against him, but those judgments come from suppliers who were never paid and from the Gabys and are not linked in any way to Loree's alleged slander. Because there is no evidence on the record to show how these damages are linked in any way to Loree's alleged slander, the damages award should be set aside as a matter of law.

What Kunst referred to as "lazy rhetoric" by Loree are statements that establish that Kunst failed to meet the legal requirements to be awarded damages. (*See* Resp. Br. at 42.) This especially true for damages so grossly out of proportion to any evidence of damages *caused by Loree*. While Kunst prattled on for hours about how much money he owed various parties, (*see, generally,* R., pgs. 159-175, Tr., Testimony of J. Scott Kunst, p. 293-359), he failed to establish how Loree's alleged defamation proximately caused these debts to be unpaid.

Finally, and assuming that the jury could properly find for such a large amount of damages caused by Loree's alleged statement (which they could not), Kunst admitted again that he refused to mitigate his damages. (*See* Resp. Br. at 44, *see also* R., p. 203, Tr., Testimony of J. Scott Kunst, p. 470:20-471:11) . Mr. Kunst apparently believes that filing bankruptcy necessarily means that he will not pay the suppliers he left unpaid. This is another example of a fundamental misunderstanding of legal proceedings and issues by Mr. Kunst. Which would be excusable, except for the fact that he seeks, without any precedential support, to hold Loree liable for years of interest and invoices and for which Kunst admitted he could have mitigated, *but refused to do so*. *Id.*

The jury's award of such excessive damages cannot remain. It was against the proof offered at trial and against the law of South Carolina.

Conclusion

Kunst failed in his brief to cite any record evidence or legal precedent to show that Loree did not prove the affirmative defenses of truth and qualified privilege. He also failed to cite any record evidence or legal precedent to show he had proved his case of

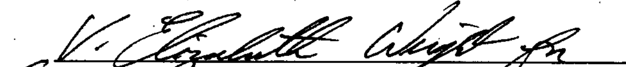
slander *per se.* Kunst further failed to plead and prove special damages and limited his causes of action to slander *per se*.

Kunst attempted to prove the jury heard evidence of Loree's slander, but the "evidence" he cited in his brief is not record evidence. Kunst attempted to rely on hyperbole and *ad hominem* attacks in an attempt to use emotion to prove his case instead of record evidence and legal precedent. Kunst has taken part in prior proceedings before this Court and is in a position to know what is expected. Because Kunst has failed to prove his case, the jury's verdict should be set aside as a matter of law and the case should be reversed and remanded for another trial.

Respectfully submitted.

V. ELIZABETH WRIGHT LAW FIRM, LLC

V. Elizabeth Wright (Bar ID 76029)
217 E. Park Avenue
Greenville, SC 29601
(864) 326-5281
bethwrightattorney@gmail.com



Gregory K. Smith (admitted *pro hac vice*)
King & Spalding, LLP
1180 Peachtree Street
Atlanta, GA 30309
(404) 572-2858
GKSmith@kslaw.com

Greenville, South Carolina

April 25, 2016

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

Robin B. Stilwell, Circuit Court Judge

Case No. 2006-CP-39-1826

RECEIVED
APR 27 2016
SC Court of Appeals

J. Scott Kunst ....Respondent,

v.

David Loree ....Appellant.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Final Brief and the Final Reply Brief of the Appellant comply with Rule 211(b), SCACR.

V. Elizabeth Wright (SC Bar ID 76029)
V. ELIZABETH WRIGHT LAW FIRM, LLC
217 E. Park Avenue
Greenville, SC 29601
(864) 326-5281
bethwrightattorney@gmail.com

Gregory K. Smith (admitted *pro hac vice*)
King & Spaulding, LLP
1180 Peachtree Street
Atlanta, GA 30309
(404) 572-2858
GKSmith@kslaw.com

Attorneys for the Appellants

Other counsel of record:

J. Scott Kunst, *pro se*
130 Arabian Way
Simpsonville, SC 29681
(864) 979-7961

Respondent