

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

J. C. Nicholson, Jr., Circuit Court Judge

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Appellate Case No.: 2016-001811  
Case No.: 2014-CP-10-6265

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**RECEIVED**

NOV 21 2016

SC Court of Appeals

James C. Owens, ..... Appellant,

-v-

Bryan Crabtree, Kirkman Broadcasting, Inc. d/b/a  
WQSC Radio, ADC Engineering, Inc., Tyler Flesch,  
and Red Drum Capital Group, LLC, ..... Defendants,

of whom ADC Engineering, Inc., is ..... Respondent.

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**APPELLANT'S DESIGNATION OF MATTER  
TO BE INCLUDED IN RECORD ON APPEAL**

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Appellant designates the following items for inclusion in the Record on Appeal, in addition to the materials designated by the Respondent.

- 1) Order Granting Defendant ADC Engineering, Inc.'s Motion for Summary Judgment filed June 22, 2016;
- 2) Order Denying Plaintiff's Motion to Alter or Amend Judgment filed August 8, 2016;
- 3) Plaintiff's Motion to Alter or Amend Judgment filed June 30, 2016;
- 4) Plaintiff's Memorandum in Support of Motion to Alter or Amend Judgment filed June 30, 2016;

- 5) Defendant ADC Engineering, Inc.'s Motion for Summary Judgment filed February 16, 2016;
- 6) Amended Summons and Complaint filed June 19, 2015;
- 7) Summons and Complaint filed October 10, 2014;
- 8) Defendant ADC Engineering, Inc.'s Answer and Counterclaim to Amended Complaint filed July 14, 2015;
- 9) Defendant ADC Engineering, Inc.'s Answer and Counterclaim to Complaint filed November 14, 2014;
- 10) Motion Hearing Transcript from May 16, 2016;
- 11) Motion Hearing Transcript from July 19, 2016;
- 12) Deposition Testimony of Christopher Cook dated May 21, 2015;
- 13) Deposition Testimony of Bryan Crabtree dated November 16, 2015 with exhibits:
  - Ex. 1 – August 12, 2014 Email from Flesch to Crabtree;
  - Ex. 1A – May 21, 2015 Email from Flesch to Crabtree;
  - Ex. 1B – September 22, 2014 Email from Flesch to Crabtree;
  - Ex. 2 – September 22, 2014 Transcript;
  - Ex. 3 – Article;
  - Ex. 4 – September 22, 2014 Email from Flesch to Crabtree;
  - Ex. 5 – September 18, 2014 Email from Flesch to Crabtree;
  - Ex. 6 – Letter to Editor of Moultrie News from Crabtree;
  - Ex. 7 – Post by Crabtree, “Save Scam Creek; The Path to a Mt. Pleasant, SC City Bankruptcy”
- 14) Deposition Testimony of Mark Dillon dated May 20, 2015 with exhibits:
  - Ex. 1 – September 16, 2014 Email from M. Dillon to G. Cook;
  - Ex. 2 – September 16, 2014 Notes titled “Shem Creek”;
  - Ex. 3 – September 16, 2014 Letter from S. Herin to M. Dillon;
  - Ex. 4 – September 16, 2014 Notes entitled “Meeting...”;
  - Ex. 5 – September 18, 2014 Meeting Note;
  - Ex. 6 – September 16, 2014 Email from T. Flesch to M. Dillon;
  - Ex. 7 – September 8, 2014 Email from T. Flesch to M. Dillon;
  - Ex. 8 – September 22, 2014 Email from S. Truschka to M. Dillon;
  - Ex. 9 – September 8, 2014 Email from T. Flesch to M. Dillon;
  - Ex. 10 – September 8, 2014 Email from R. Cook to C. Cook;
  - Ex. 11 – September 23, 2011 Email from S. Truschka to C. Cook;
  - Ex. 12 – October 24, 2014 Email from G. Jones to M. Dillon;
  - Ex. 13 – October 20, 2014 Email from S. Truschka to “All”;

- 15) Deposition Testimony of Tyler Flesch dated November 11, 2015 with exhibits:
- Ex. 2 – August 12, 2014 Email from T. Flesch to B. Crabtree;
  - Ex. 3 – September 16, 2014 Email chain from M. Dillon;
  - Ex. 4 – September 16, 2014 Email Chain from T. Flesch;
  - Ex. 5 – September 17, 2014 from M. Dillon to S. Truschka;
  - Ex. 6 – September 16, 2014 Letter from S. Herin to M. Dillon;
  - Ex. 7 – September 18, 2014 Email from T. Flesch to Dillon, Truschhka, Cook and Jones;
  - Ex. 8 – September 18, 2014 Email Chain from T. Flesch to Dillon, Truschhka, Cook and Jones;
  - Ex. 9 – Document entitled Shocking Hypocrisy: "Saving Shem Creek" Leading Member's Engineering Firm (Employer) Designed Building He Wishes To Destroy;
  - Ex. 11 – September 22, 2014 Email Chain from T. Flesch to B. Crabtree;
  - Ex. 12 – October 18, 2014 Email Chain from B. Crabtree to G. Kirkman;
  - Ex. 13 – September 22, 2014 Email from T. Flesch to 'BC';
- 16) Deposition Testimony of Michael Graham dated June 3, 2015 with exhibit:
- Ex. 4 – Group Exhibit ADC\_000017 through ADC\_000074;
- 17) Deposition Testimony of Greg Jones dated May 21, 2015;
- 18) Deposition Testimony of James Owens dated May 20, 2015 with exhibits:
- Ex. 1 – Owens Resume;
  - Ex. 2 – Owens Employment Contract;
  - Ex. 3 – ADC Engineering Handbook;
  - Ex. 4 – ADC Engineering Employee Handbook Signature Page;
  - Ex. 5 – May 20, 2014 Email from C. Nickels to J. Owens;
  - Ex. 6 – September 16, 2014 Email from T. Flesch to M. Dillon;
  - Ex. 7 – September 18, 2014 Email from T. Flesch to M. Dillon;
  - Ex. 8 – September 22, 2014 Email from T. Truschka to M. Dillon;
  - Ex. 9 – September 18, 2014 Email from T. Flesch to M. Dillon;
  - Ex. 10 – July 29, 2014 Email from J. Owens to J. Owens;
  - Ex. 11 – August 11, 2014 Email from J. Owens to J. Owens;
  - Ex. 12 – August 29, 2014 Email from J. Owens to J. Owens;
  - Ex. 13 – September 10, 2014 Email from J. Owens to J. Owens;
  - Ex. 14 – September 18, 2014 Email from H. O'Kelley to J. Owens;
  - Ex. 15 – September 18, 2014 Email from C. Cook to M. Dillon;
  - Ex. 20 – September 18, 2014 Meeting Synopsis;
  - Ex. 21 – September 8, 2014 Email from B. Crabtree to G. Kirkman;
  - Ex. 22 – Copy of Website Plan Comments;
  - Ex. 23 – Copy of Website Comments Enlarged;
  - Ex. 26 – Owens Facebook Post

- 19) Deposition Testimony of Steven Truschka dated June 3, 2015 with exhibits:
  - Ex. 1 – September 16, 2014 Email from M. Dillon;
  - Ex. 2 – September 17, 2014 Email from S. Herin;
  - Ex. 3 – September 1, 2014 Email from S. Truschka;
  - Ex. 4 – September 18, 2014 Email from T. Flesch;
  - Ex. 5 – September 18, 2014 Email from T. Flesch;
  - Ex. 7 – September 18, 2014 Email from R. Cook;
  - Ex. 8 – September 18, 2014 Email from T. Flesch;
  - Ex. 9 – September 18, 2014 Email from G. Jones to Cook and Truschka;
  - Ex. 10 – September 23, 2014 Handwritten Note;
  - Ex. 11 – September 23, 2014 Email from S. Truschka;
  - Ex. 12 – October 20, 2014 Email from S. Truschka;
  - Ex. 13 – October 24, 2014 Email from G. Jones to S. Truschka;
- 20) Crabtree's Pinocchio Image of Owens
- 21) Crabtree Article entitled "Shocking Hypocrisy: "Saving Shem Creek" leading member's engineering firm (employer) designed building he wishes to destroy."
- 22) Crabtree Article entitled "Someday I'll get to live in the REAL Mt. Pleasant – For now it's "Fake" for me!"
- 23) Letter of August 30, 2016 from Barnes to Court Reporter Rueger requesting complete transcript;
- 24) Letter of August 30, 2016 from Barnes to Court Reporter Norton requesting complete transcript;
- 25) Letter of August 30, 2016 from Barnes to Clerk of Court Armstrong filing copy of Notice of Appeal;
- 26) Letter of August 30, 2016 from Barnes to Clerk, SC Court of Appeals filing Notice of Appeal;
- 27) Letter of September 20, 2016 from Barnes to Clerk, SC Court of Appeals – advising transcript received;

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

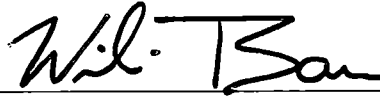
**[SIGNITURE TO FOLLOW ON NEXT PAGE]**

Respectfully submitted,

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

November 17, 2016  
Hampton, South Carolina

BY:



John E. Parker  
William F. Barnes, III  
101 Mulberry Street, East  
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ATTORNEYS FOR APPELLANT

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

J. C. Nicholson, Jr., Circuit Court Judge

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-v-

Bryan Crabtree, Kirkman Broadcasting, Inc. d/b/a  
WQSC Radio, ADC Engineering, Inc., Tyler Flesch,  
and Red Drum Capital Group, LLC, .....Defendants,

of whom ADC Engineering, Inc., is ..... Respondent.

**CERTIFICATE OF SERVICE**

This is to certify that I, **Megan C. Davis**, with the Law Firm of Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A., Attorneys for the Appellant, have this date mailed via the U.S. Postal Service with first class postage prepaid, a true and correct copy of the within **Appellant's Initial Brief and Designation of Matter to be Included in the Record on Appeal** to:

Molly Hughes Cherry, Esquire  
Nexsen Pruet, L.L.C.  
Post Office Box 486  
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Megan C. Davis

November 17<sup>th</sup>, 2016  
Hampton, South Carolina

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November 17, 2016

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The Honorable Jenny Abbott Kitchings  
S.C. Court of Appeals Clerk of Court  
Post Office Box 11629  
Columbia, SC 29211-1629

*Re: James C. Owens v. Crabtree, et al.  
Civil Action No.: 2014-CP-10-6265  
Appellate Case No.: 2016-001811*

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SC Court of Appeals

Dear Ms. Kitchings:

Please find enclosed the original and two copies of *Appellant's Initial Brief, Designation of Matter to be Included in the Record on Appeal*, and *Certificates of Service* in the above referenced matter. Please file the originals and return clocked-in copies of each in the envelope provided.

By copy of this letter, Appellant's Initial Brief and Designation of Matter are being served on all counsel of record.

With kind regards, I am

Sincerely,



William F. Barnes, III

WFB/mcd  
Enclosures as stated

cc: Molly Hughes Cherry, Esquire  
Ryan Earhart, Esquire  
William P. Early, Esquire  
Andrew S. Halio, Esquire  
G. Hamlin O'Kelley, III, Esquire

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Columbia, SC 29211-1629

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**SC Court of Appeals**