



# The South Carolina Court of Appeals

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FAX: (803) 734-1839  
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January 04, 2017

Mr. Patrick M. Higgins, Esquire  
PO Box 40  
Beaufort SC 29902

Mr. Mark Brandon Tinsley, Esquire  
PO Box 1000  
Allendale SC 29810

Mr. Robert Norris Hill, Esquire  
PO Box 1323  
Lexington SC 29071-1323

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JAN 13 2017

SC Court of Appeals

Re: Joyce Myers v. Affordable Recovery  
Lower Court Case No. 2013CP0300147  
Appellate Case No. 2015-001401

Dear Counsel:

Please be advised that this appeal will be argued on 02/08/2017 at 11:20 AM in Courtroom 2. The following oral argument times have been allocated:

Acknowledgment received.

Signature:

Robert Hill

Date:

1/11/17

Print Name:

Robert Hill

Appellant: 10 minutes

Respondent: 10 minutes

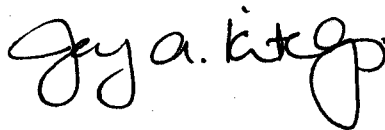
Appellant in reply: 5 minutes

**Arguments frequently begin before the time set. Please ARRIVE 30 MINUTES prior to your scheduled argument time.**

Above is an acknowledgment verifying that you have received notification of the date and time set for argument. Please sign and date, then return the completed acknowledgment to:

V. Claire Allen, Deputy Clerk  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Very truly yours,

A handwritten signature in cursive script, appearing to read "J. A. King".

CLERK

LAW OFFICE OF ROBERT HILL

P.O. BOX 11629  
LEXINGTON, SOUTH CAROLINA 29071

ROBERT N. HILL  
ATTORNEY AT LAW

TELEPHONE  
803-520-4370

EMAIL  
attorneyhill@twc.com

January 11, 2017

Clerk of Court  
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P.O. Box 11629  
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JAN 13 2017

**SC Court of Appeals**

Re: Myers v. Affordable Recovery Solutions, a/k/a ARS,  
C/A # 2013-CP-03-00147  
**Appellate Case # 2015-001401**

Dear Clerk of Court,

Enclosed is my acknowledgment that oral argument is scheduled for February 8, 2017 at 11:20 AM in Courtroom 2. I will be arguing for the Respondent Joyce Myers.

Before the argument, please bring these authorities to the panel's attention:

**Standard of review on the trial court's finding that the parties lacked assent to arbitrate (Respondent's Brief, 7-9)**

*Parsons v. John Wieland Homes and Neighborhoods of the Carolinas, Inc.*, 418 S.C. 1, 6, 791 S.E.2d 128, 130 (2016) (“[A] circuit court’s factual findings will not be reversed on appeal if any evidence reasonably supports the findings”).

**The outrageous and unforeseeable torts exception to arbitrate.**  
(Respondent's Brief 9-13).

*Parsons*, 418 S.C. 13-21, 791 S.E.2d at 134-139 (reaffirming the validity of the “outrageous and unforeseeable torts” exception to arbitration).

Letter to Court of Appeals  
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**Lack of privity to arbitrate** (Respondent's Brief, pp. 13-20)

*Malloy v. Thompson*, 409 S.C. 557, 561-562, 762 S.E.2d 690, 692-693 (2014) (nonsignatory not bound to arbitrate where his claims arose under general tort-law duties and not the contract to arbitrate);

*Thompson v. Pruitt Corp.*, 416 S.C. 43, 56-62, 784 S.E.2d 679, 686-690 (Ct.App. 2016) (rejecting the third-party beneficiary, intertwined, and estoppel theories where the plaintiff's tort claims did not arise under the contract containing the arbitration clause).

*Wilson v. Willis*, 416 S.C. 395, 416-418, 786 S.C. 571, 582-583 (Ct.App. 2016) (nonsignatory bound to arbitrate where its claims necessarily depended on the contract containing the arbitration clause).

**Waiver of arbitration** (Respondent's Brief, pp. 21-25)

*Johnson v. Heritage Healthcare of Estill, LLC*, 416 S.C. 508, 514, 788 S.E.2d 216, 219 (2016) (noting that a party seeking to compel arbitration has the burden to halt discovery and seek the court's protection), *citing Evans v. Accent Mfd. Homes, Inc.*, 352 S.C. 544, 551, 575 S.E.2d 74, 77 (Ct.App. 2003).

*Wilson*, 416 S.C. at 420-424, 786 S.E.2d at 584-586 (examining whether arbitration was waived where no one took depositions and the party seeking arbitration declined to require discovery responses while its motion to compel was pending).

My highest regards,



Robert Hill

cc: Mark B. Tinsley, Esq.  
Patrick M. Higgins, Esq.

