



**SOWELL GRAY
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Litigation + Business

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February 22, 2017

By Hand Delivery

The Honorable Daniel E. Shearouse
Clerk of Court
Supreme Court of South Carolina
1231 Gervais Street
Columbia, South Carolina 29201

RECEIVED

FEB 22 2017

S.C. SUPREME COURT

Re: Pavilion Dev. Corp. & Larry McNair v. Nexsen Pruet
Appellate Case No. 2016-001632
SGSL No. 5347/1509

Dear Mr. Shearouse:

This firm represents Nexsen Pruet in the above-referenced matter. Enclosed for filing are the original and seven copies of a motion to dismiss the appeal. Please file the original and return a filed copy to me via my firm's courier.

This motion was originally filed in the South Carolina Court of Appeals on November 21, 2016, together with a motion to transfer/certify the case to this Court pursuant to Rule 204(b), SCACR. The motion to transfer sought to have this Court decide both the motion to dismiss as well as the merits of the appeal, should the Court deny the motion to dismiss. Nexsen Pruet attached the motion to dismiss as an exhibit to the motion to transfer. Nexsen Pruet asked this Court to decide the motion to dismiss due to this Court's familiarity with the facts and procedural history of this case, given that the Court decided the original appeal in this case. Additionally, Nexsen Pruet specifically requested that the motion to dismiss be decided by this Court because the motion relates directly to the impact and interpretation of this Court's August 12, 2015 opinion and September 3, 2015 order.

On December 14, 2016, Appellants filed a document consenting to the motion to transfer, specifically stating that Appellants "agree[d] that this Court should decide the motion to dismiss filed by Nexsen Pruet . . . because the motion involved the meaning and effect of this Court's decisions."

Before this Court had the opportunity to rule on the motion to transfer/certify, the Court of Appeals denied the motion to dismiss by order dated January 27, 2017.



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On February 9, 2017, this Court granted the motion to transfer/certify.

Accordingly, now that the case is before this Court, Nexsen Pruet is re-filing its motion to dismiss the appeal.

Thank you for your assistance. Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Tina Cundari".

Tina Cundari ^{BAE}
w/ permission
TMC:cls

Enclosure(s)

cc: Andrew K. Epting, Jr., Esq. (by email)
George J. Kefalos, Esq. (by email)
Michelle N. Endemann, Esq. (by email)
James G. Long, Esq. (by email)



The Supreme Court of South Carolina

Sowell Gray Robinson Stepp & Laffitte

02/23/2017

RECEIPT #82589

Case No: 2016-001632
Case Short Title: Pavilion Development Corp. v. Nexsen Pruet, LLC
Event:
Fee Type: Motion Fee
Amount: \$25.00
Payment Type: Check
Reference No: 36130
Check/Money Order Date: 02/22/2017
Comments: