

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Appellate Case No. 2016 – 001266

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

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Case No. 2013-CP-10-1396

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RECEIVED

MAR 16 2017

SC Court of Appeals

PERSONAL CARE, INC. ....Appellant,

vs.

JERRY N. THEOS; URICCHIO, HOWE, KRELL,  
JOHNSON, TOPOREK THEOS & KEITH, PA;  
CHERYL D. SHOUN; AND TAYLOR SHOUN,  
BOWLEY & BYRD, LLC..... Respondents.

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RESPONDENTS' JOINT REPLY TO APPELLANT'S RETURN  
CONCERNING MOTION TO STRIKE ITEM NO. 13

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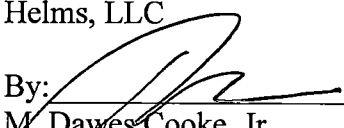
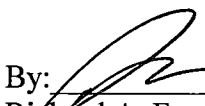
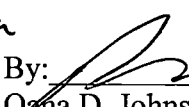
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Having reviewed pages 1 through 6 of the Appellant's Return to Motion to Strike, it appears that Appellant concedes that Item No. 13 was not provided to the underlying court prior to the dismissal of this case. Rather, Appellant seeks to expand the law by arguing that Item No. 13 was metaphorically placed in the Record because the judge relied on the Supreme Court's Maxwell v. Genez, 356 S.C. 617, 591 S.E.2d 26 (S.C. 2004) decision or, alternatively, Item No. 13 should be allowed to be in the Record on Appeal because it is important for the Court of Appeals to review Item No. 13. A ruling in favor of the Plaintiff here would set a precedent of allowing parties to introduce lower court briefs and motions for each cited case in Record on Appeal that were never presented or contemplated by the trial court, which will make the Appellate Court's review much more difficult.

As Appellant's arguments violate the express rules of the Court of Appeals, Respondents respectfully request that Item No. 13, which was admittedly not presented to the lower court or placed in the Record with the lower court, be excluded from the Record on Appeal pursuant to the express Rules 209(b) and 210(c) of the court.

Respectfully submitted,

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|---|---|--|
| <p>Barnwell Whaley Patterson &amp; Helms, LLC</p> <p>By: </p> <p>M. Dawes Cooke, Jr.<br/>Phillip S. Ferderigos<br/>288 Meeting Street, Suite 200<br/>Charleston, SC 29401</p> <p><i>Attorneys for Jerry N. Theos and Uricchio, Howe, Krell, Jacobson, Toporek, Theos &amp; Keith, P.A.</i></p> | <p>K&amp;L Gates, LLP</p> <p>By:  with express written permission</p> <p>Richard A. Farrier, Jr.<br/>134 Meeting Street, Suite 200<br/>Charleston, SC 29401</p> <p><i>Attorney for Cheryl D. Shoun</i></p> | <p>By:  with express written permission</p> <p>Qana D. Johnson<br/>Attorney at Law<br/>215 East Bay Street, Suite 406<br/>Charleston, SC 29407</p> <p><i>Attorney for Taylor Bowley and Byrd, LLC</i></p> |
|---|---|--|

Date: 3/14/2017      Date: 3/14/2017      Date: 3/14/2017

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JOHNSON, TOPOREK THEOS & KEITH, PA;  
CHERYL D. SHOUN; AND TAYLOR SHOUN,  
BOWLEY & BYRD, LLC..... Respondents.

PROOF OF SERVICE

I hereby certify that on the 14 day of March, 2017, I served a copy of the Respondents' Joint Reply to Appellant's Return Concerning Motion to Strike Item No. 13 on counsel for the Appellant via U.S. Mail with sufficient postage, correctly addressed as follows:

Pendarvis Law Offices, P.C.  
Thomas A. Pendarvis, Esq.  
Catherine B. Kerney, Esq.  
710 Boundary Street, Unit A-1  
Beaufort, SC 29902-4188

Barnwell Whaley Patterson & Helms, LLC

By: \_\_\_\_\_

Phillip S. Ferderigos



Phillip S. Ferderigos, Partner  
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March 13, 2017

RECEIVED

MAR 16 2017

SC Court of Appeals

59.014

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

RE: Personal Care, Inc. v Jerry N. Theos; Uricchio, Howe, Krell, Johnson, Toporek, Theos & Keith, PA; Cheryl D. Shoun; and Taylor, Shoun, Bowley & Byrd  
C/A No. 2013-CP-10-1396

Dear Jenny:

Please find enclosed the original and seven copies of Respondents Joint Reply to Appellant's Return Concerning Motion to Strike Item 13 and Proof of Service with regard to the above referenced matter. Please file the original and six copies and return the seventh clocked copy to me in the enclosed envelope. By copy of this letter and pursuant to the Certificate of Service I am serving copies the same on all counsel of Record.

Thank you for your attention and your assistance.

With kind regards,

Phillip S. Ferderigos

Enc.

Cc w/enc.: Thomas A. Pendarvis, Esq.  
Oana Dobrescu Johnson, Esq.  
Richard A. Farrier, Jr., Esq.

PSF/bbm

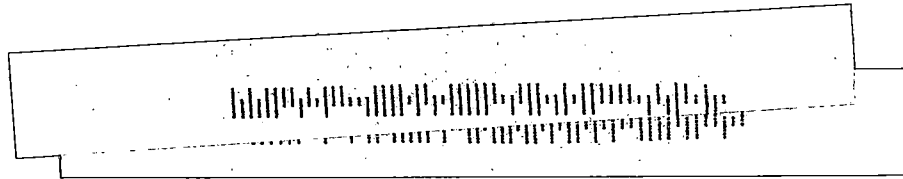
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REPRESENTING CLIENTS IN ALL COURTS IN SOUTH CAROLINA AND NORTH CAROLINA AND IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



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PATTERSON & HELMS LLC | 1938-2013

P.O. Drawer H, Charleston, SC 29402-0197

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SC Court of Appeals

59.014  
The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
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