

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM BEAUFORT COUNTY  
In the Court of Common Pleas

Marvin H. Dukes, Presiding Judge

---

Case No. 2016-000767

---

**RECEIVED**

DEC 28 2016

**SC Court of Appeals**

JRC Properties, LLC ..... Respondent,

v.

Dennis Corporation, a South Carolina Corporation,  
and Daniel R. Dennis, III ..... Appellants.

---

**RECORD ON APPEAL VOLUME II**

---

S. Jahue Moore, Esquire  
John C. Bradley, Jr., Esquire  
MOORE TAYLOR LAW FIRM, P.A.  
P.O. Box 5709  
West Columbia, South Carolina 29171  
(803) 796-9160  
ATTORNEYS FOR THE APPELLANTS

Sean Michael Bolchoz, Esquire  
P. O. Box 828  
Bluffton, South Carolina 29910  
(843) 836-3033  
Attorney for Respondent

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM BEAUFORT COUNTY  
In the Court of Common Pleas

Marvin H. Dukes, Presiding Judge

---

Case No. 2016-000767

---

JRC Properties, LLC ..... Respondent,

v.

Dennis Corporation, a South Carolina Corporation,  
and Daniel R. Dennis, III ..... Appellants.

---

**RECORD ON APPEAL VOLUME II**

---

S. Jahue Moore, Esquire  
John C. Bradley, Jr., Esquire  
MOORE TAYLOR LAW FIRM, P.A.  
P.O. Box 5709  
West Columbia, South Carolina 29171  
(803) 796-9160  
ATTORNEYS FOR THE APPELLANTS

Sean Michael Bolchoz, Esquire  
P. O. Box 828  
Bluffton, South Carolina 29910  
(843) 836-3033  
Attorney for Respondent

## INDEX

### VOLUME I

#### ORDERS AND JUDGMENTS

|                                                                                                           |    |
|-----------------------------------------------------------------------------------------------------------|----|
| Consent Order Substituting Counsel for Defendants filed January 27, 2014 .....                            | 1  |
| Final Order and Judgment filed March 23, 2016 .....                                                       | 2  |
| Amended Order Denying Summary Judgment dated May 20, 2015 .....                                           | 9  |
| Order Referring Non-Jury Action to the Beaufort County Master in Equity filed<br>September 22, 2015 ..... | 12 |
| Order filed November 19, 2015 .....                                                                       | 13 |
| Amended Form 4 filed June 2, 2016 .....                                                                   | 14 |

#### PLEADINGS

|                                                   |    |
|---------------------------------------------------|----|
| Summons and Complaint filed October 2, 2013 ..... | 16 |
| Answer of Defendants filed December 5, 2013 ..... | 24 |

#### TRANSCRIPTS

|                                                                          |    |
|--------------------------------------------------------------------------|----|
| Transcript of Deposition of Daniel R. Dennis, III on June 24, 2015 ..... | 28 |
| Transcript of Final Hearing held on January 25, 2016                     |    |

##### Rollin E. McKim, Jr.

|                                  |     |
|----------------------------------|-----|
| Examination by Mr. Bolchoz ..... | 221 |
| Cross by Mr. Moore .....         | 250 |
| Redirect by Mr. Bolchoz .....    | 299 |
| Recross by Mr. Moore .....       | 304 |
| Redirect by Mr. Bolchoz .....    | 307 |

##### Amber Hunting

|                                |     |
|--------------------------------|-----|
| Examination by Mr. Moore ..... | 330 |
| Cross by Mr. Bolchoz .....     | 334 |

##### Daniel R. Dennis, III

|                               |     |
|-------------------------------|-----|
| Examination by Mr. Moore..... | 338 |
| Cross by Mr. Bolchoz .....    | 350 |
| Redirect by Mr. Moore .....   | 376 |
| Recross by Mr. Bolchoz.....   | 379 |

#### Sean Bolchoz, Esquire

|                               |     |
|-------------------------------|-----|
| Examination by Mr. Moore..... | 382 |
|-------------------------------|-----|

#### Exhibits

|                                 |     |
|---------------------------------|-----|
| Plaintiff's Exhibit No. 1 ..... | 397 |
| Plaintiff's Exhibit No. 2.....  | 414 |
| Plaintiff's Exhibit No. 3.....  | 415 |
| Plaintiff's Exhibit No. 4.....  | 416 |
| Plaintiff's Exhibit No. 5.....  | 419 |
| Plaintiff's Exhibit No. 6.....  | 421 |
| Plaintiff's Exhibit No. 7.....  | 422 |
| Plaintiff's Exhibit No. 8.....  | 423 |
| Plaintiff's Exhibit No. 9.....  | 425 |

#### OTHER MOTIONS AND DOCUMENTS

|                                                                     |     |
|---------------------------------------------------------------------|-----|
| Plaintiff's First Request for Admissions dated January 3, 2014..... | 436 |
| Response to Request to Admit dated January 14, 2014.....            | 438 |

#### VOLUME II

|                                                                                                     |     |
|-----------------------------------------------------------------------------------------------------|-----|
| Defendant's Supplemental Responses to Plaintiff's First Interrogatories dated<br>June 5, 2014 ..... | 439 |
| Notice of Motion and Motion for Summary Judgment dated September 5, 2014.....                       | 442 |
| Thomas Crouch Email dated May 8, 2015 .....                                                         | 472 |
| Affidavit of Attorneys Fees dated February 9, 2015 .....                                            | 473 |
| Judge Marvin H. Dukes, III/Sean Michael Bolchoz's Email Exchange of<br>November 2015.....           | 476 |
| Motion to Dismiss filed December 13, 2015 .....                                                     | 478 |
| Notice of Final Hearing and Bench Trial dated December 2, 2015.....                                 | 479 |
| Plaintiff's Post Trial Brief and Memorandum of Law dated February 12, 2016.....                     | 480 |

|                                                                                                           |     |
|-----------------------------------------------------------------------------------------------------------|-----|
| Correspondence from Sean Michael Bolchoz to Judge Marvin H. Dukes, III dated February 22, 2016 .....      | 488 |
| Memorandum of Law Regarding Entitlement to Award of Attorneys Fees and Costs filed February 23, 2016..... | 489 |
| Email from Judge Marvin H. Dukes, III dated February 25, 2016.....                                        | 496 |
| Sean Michael Bolchoz’s Letter to Judge Marvin H. Dukes, III of February 29, 2016..                        | 497 |
| Judge Marvin H. Dukes, III Email to Counsel of March 1, 2016.....                                         | 498 |
| Notice of Appeal .....                                                                                    | 501 |
| Office Lease .....                                                                                        | 510 |

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

IN THE COURT OF COMMON PLEAS

JRC Properties, LLC, )  
Plaintiff, )  
vs. )  
Dennis Corporation, a South Carolina )  
Corporation, and Daniel R. Dennis, III, )  
Defendants. )

C.A. No.: 2012-CP-07-3120

**DEFENDANTS' SUPPLEMENTAL  
RESPONSES TO PLAINTIFF'S  
FIRST INTERROGATORIES**

2. Give the names and address of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witness and indicate who has possession of such statements.

Dan R. Dennis, III  
c/o Dennis Corporation  
1800 Huger Street  
Columbia, SC 29201  
No statement taken.

Frank Hribar  
7 Indigo Springs Court  
Columbia, SC 29229  
No statement taken.

Amber Hunting  
1401 Sunnyside Drive  
Cayce, SC 29033  
No statement taken.

*Mark  
Subs.*

4. Identify every person known to you who may have any knowledge of, information of or possession of any of the documents or tangible objects referred to in response to the preceding Interrogatory.

Dan R. Dennis, III  
c/o Dennis Corporation  
1800 Huger Street  
Columbia, SC 29201

9. **For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witness.**

Dan Dennis will testify with regard to the lease, the condition of the property, and payments made to the Plaintiff.

Frank Hribar will testify as to the files and equipment that he removed from the building and the condition of the building at that time.

Amber Hunting will testify that she supervised removal of furniture, boxes, appliances, miscellaneous office supplies and equipment from the building.

All will testify that the leased building was not damaged and left in reasonable condition for purposes as general office during January 2008 and January 2011.

13. **Identify any and all payments made by Beaufort County to the Defendants between January 21, 2011 and July 12, 2011, setting forth the following information for each such payment: the payment amount, the date of payment and the purpose for such payment.**

Attached are copies of all payments made by Beaufort County, dated January 21, 2011 through July 12, 2011, for professional services rendered.

14. **Identify any and all payments made the Defendants to any and all sub consultants, firms and/or any persons or entities who provided services or materials to the Defendants, during their tenancy of the leased premises, between January 21, 2011 and July 12, 2011, setting forth the following information for each such payment: the payment amount, the date of payment and the purpose of such payment.**  
The answer to this question is unknown but will be supplemented.

Attached are copies of any and all payments made to any and all sub consultants, firms and/or any persons or entities that provided services or materials to Defendants between January 21, 2011 and July 12, 2011.

15. **Set forth the following information regarding the Defendants' monthly payments to the Plaintiff:**

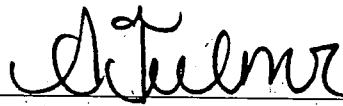
- a. For the October 2010 payment, the payment amount, the date of payment, manner of payment (i.e., check, cash, money order), and method of delivery of same;
- b. For the November 2010 payment, the payment amount, the date of payment, manner of payment (i.e., check, cash, money order), and method of delivery of same;
- c. For the December 2010 payment, the payment amount, the date of payment, manner of payment (i.e., check, cash, money order), and method of delivery of same;
- d. For the January 2011 payment, the payment amount, the date of payment, manner of payment (i.e., check, cash, money order), and method of delivery of same.

Defendants made no payments to the Plaintiff during the time period October 2010 through January 2011.

18. If you denied Plaintiff's Request for Admissions Number 3, set forth the grounds and/or factual basis for such denial, and identify any documentation in support of such denial.

At the time the Request for Admissions were responded to, it was not known to be true.

MOORE TAYLOR LAW FIRM, P.A.

BY: 

S. Jahue Moore  
1700 Sunset Boulevard  
P. O. Box 5709  
West Columbia, SC 29171  
(803) 796-9160

ATTORNEYS FOR DEFENDANTS

West Columbia, South Carolina  
June 5, 2014

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

JRC PROPERTIES, LLC,

Plaintiff

v.

DENNIS CORPORATION, a South  
Carolina Corporation, and DANIEL R.  
DENNIS, III,

Defendants.

IN THE COURT OF COMMON PLEAS  
CASE NO. 2013-CP-07-02131

**NOTICE OF MOTION  
AND MOTION FOR  
SUMMARY JUDGMENT**

TO: THE ABOVE-NAMED DEFENDANT, AND ATTORNEY:

PLEASE TAKE NOTICE THAT the Plaintiff, by and through his undersigned counsel, will move before the Beaufort County Court of Common Pleas, at the Beaufort County Courthouse in Beaufort, South Carolina, to be heard on the tenth (10<sup>th</sup>) day after service hereof, or as soon thereafter as counsel may be heard, for an Order granting the Plaintiff summary judgment on his cause of action for breach of contract, and as grounds therefor, would respectfully state as follows:

1. The Plaintiff, former landlord for the Defendants, brought this action against them for breach of contract, conversion and violation of the South Carolina Unfair Trade Practices Act.
2. From the discovery exchanged thus far in this case, it is clear that the Plaintiff is entitled to summary judgment on its cause of action for breach of contract.
3. The Plaintiff and Defendant Dennis Corporation entered into a written lease in January of 2008 of a commercial unit located in Bluffton, South Carolina; a copy of the written lease (the "Lease") is attached hereto as Exhibit A and incorporated herein by reference.<sup>1</sup>

---

<sup>1</sup>The fact of the Lease is uncontested, as the Defendants identified the Lease in their response to Plaintiff's First Interrogatories; further, Defendants produced a copy of the Lease in their Supplemental Responses to Plaintiff's First Request for Production, a copy of which is attached hereto as Exhibit B and incorporated herein by reference.

4. Section 2.2 of the Lease provides that, upon termination of Defendants' contract with Beaufort County, the Defendants shall have the option to immediately terminate the Lease upon notice to the Plaintiff.
5. By letter dated January 21, 2011, the Defendants notified Plaintiff that they were terminating the lease pursuant to Section 2.2, effective January 31, 2011; a copy of the letter is attached hereto as Exhibit C and incorporated herein by reference.<sup>2</sup>
6. Section 3.3 of the Lease provides that the Defendants' obligation to pay the base rental, any additional rent, and all other charges due and owing shall survive any expiration of or early termination of the Lease.
7. As of the date of the letter of January 21, 2011 (Exhibit C), the Defendants were in arrears for four (4) months' worth of rent, late charges and other fees due, as they had not made the rental payments for October, November and December of 2010, and January of 2011.<sup>3</sup>
8. Section 8 of the Lease provides that, upon termination, the Plaintiff is entitled to recover its costs of collection, including attorney's fees and costs, for unpaid rent, charges and other debt owing from the Defendants.
9. The verified statement of account, attached hereto as Exhibit F and incorporated herein by reference reflects all amounts due from the Defendants for unpaid rental, late charges, interest and other fees and costs due under the Lease, exclusive of attorney's fees and costs.
10. Summary judgment is proper when there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law. *Curiel v. Hampton County E.M.S.*, 401 S.C. 646, 737 S.E.2d 854 (Ct.App. 2012).

---

<sup>2</sup>The fact that the Defendants sent the letter at Exhibit C is uncontested, as the Defendants admitted to the same in their Response to Request to Admit. See ¶1 of Plaintiff's First Request for Admissions, and Defendants' Response to Request to Admit, copies of which are attached hereto as Exhibits D and E and incorporated herein by reference.

<sup>3</sup>The fact of the Defendants' arrearage is uncontested. See ¶15 of Defendants' Supplemental Responses to Plaintiff's First Interrogatories, a copy of which is attached hereto as Exhibit G and incorporated herein by reference,

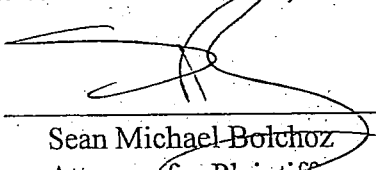
11. There are no issues of material fact with regard to the Plaintiff's claim for breach of contract, and the Plaintiff is accordingly entitled to judgment as a matter of law against the Defendants on such claim.

This Motion is and shall be supported by the pleadings and discovery responses generated and exchanged during the litigation of this action, as well as any such affidavit(s) and memoranda as may be submitted in support of this motion, and the statutory and common law of the State of South Carolina.

**WHEREFORE**, the Plaintiff prays that this Court enter its Order granting it summary judgment on its claim for breach of contract in this case, pursuant to Rule 56, SCRPC, and awarding Plaintiff any such other and further relief as this Court deems just and proper.

Respectfully submitted,

**BOLCHOZ LAW FIRM, PA**

By: 

Sean Michael Bolchoz  
Attorney for Plaintiff  
6 Buckingham Plantation Drive, Suite B  
Post Office Box 828  
Bluffton, South Carolina 29910  
(843) 836-3033

Bluffton, South Carolina  
September 5, 2014

\\Seanbolchoz-pc\H to M Clients\McKim, Rollin - BL006\motion - SJ - rev.wpd

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT



OFFICE LEASE

THIS LEASE AGREEMENT, dated this \_\_\_\_ day of January, 2008, made by **JRC PROPERTIES, LLC**, 20 Towne Square, PMB 390, Bluffton, SC 29910 ("Landlord") and **DENNIS CORPORATION**, whose address is 5000 Thurmond Mall, Suite 114, Columbia, South Carolina 29201 ("Tenant").

WITNESSETH: THAT,

Landlord, for and in consideration of the rents, covenants, agreements, and stipulations herein contained, to be paid, kept, and performed by Tenant, has leased and rented, and by these presents leases and rents unto Tenant, and Tenant hereby leases upon the terms and conditions herein contained, the Premises described in Paragraph 1.1 (b) below. So long as Tenant shall observe and perform the covenants and agreements binding on it hereunder and subject to the terms and provisions hereof, Tenant shall at all times during the Lease Term peacefully and quietly have and enjoy possession of the Premises.

I

PREMISES AND OTHER DEFINITIONS

Unless the context otherwise specifies or requires, the following terms shall have the meanings herein specified:

1.1 Premises. Terms used in defining Premises are:

(a) The term "Building" shall mean the office building known as Building #6 Buckingham Plantation Drive, Bluffton, South Carolina ("Building").

(b) The term "Premises" shall mean (i) the exclusive use of the Building which contains 3743 square feet; and (ii) the non-exclusive use of the existing parking areas located on the Land.

(c) Land. The term "Land" shall mean Building #6 Buckingham Plantation Drive, Bluffton, South Carolina together with its associated parking.

II

TERM, ASSIGNMENT, AND SUBLETTING

2.1 Term. On the Commencement Date, Tenant shall take and accept the Premises from Landlord in their then condition and as suited for the use intended by Tenant, to have and to hold the same for a period of five (5) years (the "Initial Lease Term"). The Initial Lease Term shall

N:\directory\joanne\real-estate\leases\mckim

commence on March 1, 2008 (the "Commencement Date") and shall end at 6:00 P.M. E.S.T. on February 28, 2013 (the "Expiration Date").

2.2 Tenant's Right of Early Termination. In the event that Tenant's contract with Beaufort County is terminated at any time and for any reason by the county, Tenant shall upon verification of the termination have the option to immediately terminate this Lease upon provision of written notice to Landlord of its election to do so.

2.3 Removal of Tenant's Personal Property. Before the termination of this Lease, Tenant shall remove from the Premises all its personal property which this Lease allows Tenant to remove and peaceably surrender such Premises and the keys thereto to Landlord in the same condition as at the beginning of this Lease, only natural wear and tear excepted. Such property of Tenant as it fails to remove either from the Premises or the Building after the termination of this Lease shall be considered as abandoned by Tenant and may be disposed of by Landlord at Tenant's expense in any manner whatsoever without accounting to Tenant for same or being liable in any way to Tenant for such disposition.

2.4 Holding Over. In no event shall there be any renewal of this Lease by operation of law, and if Tenant remains in possession of the Premises after the termination of this Lease and without a new lease executed by Landlord and Tenant, Tenant shall be deemed to be occupying the Premises as a tenant at sufferance at a Base Rental equal to one hundred percent (100%) of the then existing market rental rate and additional rental as provided for under this Lease, and otherwise subject to all the covenants and provisions of this Lease insofar as the same are applicable to a month-to-month tenancy.

2.5 Assignment and Subletting: The Tenant shall not, without the Landlord's prior written consent: (i) mortgage, pledge, encumber, or otherwise transfer (whether voluntarily, by operation of law, or otherwise) this Lease or any interest hereunder; (ii) allow any lien to attach to Tenant's interest in the Premises or this Lease; (iii) permit the use or occupancy of the Premises or any part thereof by any one other than Tenant; (iv) assign or convey this Lease or any interest herein; or (v) sublet the Premises or any part thereof; and any attempt to consummate any of the foregoing without Landlord's consent shall be void. Landlord may deny or withhold its consent to any of the foregoing in Landlord's sole discretion, for any reason or for no reason.

2.6 Extension Options. Tenant shall have three (3) options to extend the Term of this Lease for an additional one (1) year period (each such 1-year period hereafter referred to as a "Renewal Term"). In order to exercise such option, Tenant must provide written notice to Landlord not less than ninety (90) days prior to the end of the Initial Lease Term or Extension Term, as applicable, of its election to extend the term of this Lease.

## RENT, RENT ADJUSTMENT, AND DEPOSITS

3.1 Payment of Base Rental. Tenant shall pay to Landlord as annual rent during the Initial Lease Term and any Renewal Term the Base Rental (as defined in Paragraph 3.2 hereof). The Base Rental shall be paid in equal monthly installments, in advance, on the first day of every calendar month during the Lease Term. If the Commencement Date occurs on other than the first day of a calendar month, Tenant shall pay, in addition to Base Rental, a prorated portion of the Base Rental for the first Lease month based upon the number of days remaining in said first partial calendar month.

### 3.2 Amount of Base Rental.

- a. During the first year of the term of the Lease, the Base Rental will be \$15.00 per square foot (3743 sq. ft.) of the Premises per month. For the first year of the term of the Lease, such monthly rental shall be \$4,678.75.
- b. A security deposit of \$4,678.75 will be paid by Tenant prior to occupancy. The security deposit will be refundable 30 days from the expiration of this lease unless any charges as outlined in 4.1 have accrued.
- c. The Base Rental will increase by \$0.50 per square foot for each year of the Initial Lease Term or any Renewal Term, with the first rental increase occurring on the first day of the first month following the one-year anniversary of the Commencement Date.
- d. All monthly rent payments will be made in advance on the first day of the month for which it is payable.

3.3 Payments. Tenant shall pay to Landlord all Base Rental, any additional rent, and all other charges due and owing by Tenant under this Lease without deduction or set off, in legal tender, and at Landlord's address or as otherwise directed from time to time by Landlord's notice. Tenant's obligation to pay the Base Rental, any additional rent, and all other charges due and owing by Tenant under this Lease shall survive the expiration or earlier termination of this Lease unless termination is through the faults or acts of the Landlord.

## IV

## PREPARATION, MAINTENANCE, AND REPAIR OF PREMISES

4.1 Maintenance and Repairs by Tenant. Tenant shall at its own expense keep the interior of the Premises in good repair and tenantable condition, including all interior repairs and maintenance, and indemnify Landlord against any loss, damage, or expense arising by reason of any failure of Tenant so to keep the Premises in good repair and tenantable condition or due to any act or neglect of Tenant, its agents, employees, contractors, invitees, licensees, tenants, or assignees. If Tenant fails, after written notice from Landlord and 15 days to cure, to perform, or cause to be performed, any such necessary maintenance and repairs, then at the option of

N:\directory\joanne\real-estate\leases\unckim

Landlord, in its sole discretion, any such maintenance or repair may be performed or caused to be performed by Landlord and the cost and expense thereof charged to Tenant, and Tenant shall pay the amount thereof to Landlord on demand as additional rent. Occupancy by Tenant shall be deemed acceptance of the Premises. For purposes of this paragraph 4.1, maintenance and repair of the windows and doors shall also be the responsibility of the Tenant.

4.2 Maintenance and Repairs by Landlord. Landlord, at its cost and expense and without right of reimbursement from Tenant, shall be responsible for all necessary maintenance and repairs to (i) all portions of the Building other than the interior of the Premises, including without limitation the roof, foundation, exterior walls, structure, and building exterior, and (ii) all systems within the Building, including without limitation, plumbing, electrical, heating, ventilating, and air conditioning. Landlord shall also provide pest control for the Building and Land.

4.3 Alterations by Tenant. Tenant shall make no alterations or additions of any kind in or to the Premises without first obtaining Landlord's written consent. Tenant shall discharge of record by bond or otherwise, within ten (10) days following the filing thereof, any mechanic's or similar lien or encumbrance filed against the Premises or the Building for work or materials claimed to have been furnished to or for the benefit of Tenant and/or the Premises.

4.4 Hazardous Materials. Tenant will not cause any hazardous material to be placed on the Land.

4.5 Damage and Destruction. If the Premises are rendered partially or wholly unfit for occupancy by fire, the elements, act of God or other casualty (fire, the elements, acts of God or other casualties hereinafter referred to as the "Casualty"), and if such damage cannot, in Landlord's reasonable opinion, be materially restored within sixty (60) days of the date of such Casualty, then Landlord may, at its sole option, terminate this Lease as of such date. For purposes hereof, the Premises shall be deemed "materially restored" if they are in such condition as would not prevent or materially interfere with Tenant's use of the Premises for the purpose for which it was then being used. If this Lease is not terminated pursuant to the above provisions of this Paragraph 4.5, then Landlord shall proceed with all due diligence, upon receipt of all insurance proceeds due to Landlord, to repair and restore the Premises. In any case the Landlord must have the Premises restored to its original condition within 120 days of said damage or destruction or Tenant will have the right to terminate this lease at its sole option without liability. In no event shall Landlord be required to rebuild, repair, or replace any part of the partitions, fixtures, additions, or other property and improvements which may have been placed in or about the Premises by Tenant. If this Lease shall not be terminated by Landlord pursuant to this Paragraph 4.5 and if the Premises are unfit for occupancy in whole or in part following such Casualty, the rent payable during the period in which the Premises are unfit for occupancy shall abate in proportion to the percentage of the rentable area of the Premises rendered unusable by such Casualty as agreed upon between Tenant and Landlord; provided, however, that no such abatement shall be made in the event such Casualty shall have been caused through the gross negligence or willful misconduct of Tenant, its agents, employees, contractors, invitees, licensees, tenants, or assignees. If any such Casualty occurs, Landlord shall not be liable to Tenant for inconvenience, annoyance, loss of profits, expenses, or any other type of injury or

N:\directory\joanne\real-estate\leases\wilsons:

damage resulting from the repair of any such Casualty, or from any repair, modification, arranging, or rearranging of any portion of the Premises or any part or all of the Building or for termination of this Lease as provided in this Paragraph 4.5. Notwithstanding any language contained in this Lease to the contrary, Landlord's obligations to repair and restore such damage shall be limited to the amount of insurance proceeds made available to Landlord for such repair and restoration (after any right of any mortgagee to said proceeds); provided, that if, in Landlord's reasonable judgement, the amount of such insurance proceeds is not sufficient to materially restore the Premises and the Building (except for any improvements, fixtures, finishes, or personalty that may have been placed in or about the Premises by Tenant), Landlord shall have the right to terminate this Lease as of the date of such Casualty and the Lease Term shall end as of such date. In the event of any Casualty during the final year of the Lease Term of this Lease, Landlord, at Landlord's sole option, shall have the right to terminate this Lease as of the date of such Casualty and the Lease Term shall end as of such date. Landlord is required to maintain adequate insurance to restore damaged Premises to its condition at the time of the casualty. In the event the Premises are not returned to its condition at the time of the Casualty, then Tenant has the option to terminate this Lease without liability.

4.5 Eminent Domain. If all of the Premises should be taken for any public or quasi-public use under governmental law, ordinance, or regulation, or by right of eminent domain, or by private purchase in lieu thereof, and the taking would prevent or materially interfere with the use of the Premises for the purpose for which it is then being used, this Lease shall, at either Landlord's or Tenant's option, terminate effective as of the date of such actual physical taking. Tenant would share in any condemnation award to the extent that said award included Tenant Improvement in addition to the Base Building and other items of value provided or installed by Tenant. If part of the Premises is taken for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or by private purchase in lieu thereof, then Landlord or Tenant shall have the right to terminate this Lease effective as of the date of such actual physical taking. In the event that this Lease is not terminated as provided above in this Paragraph 4.6, the rent payable hereunder during the unexpired portion of this Lease shall be reduced in proportion to the percentage of the rentable area of the Premises rendered unusable by such taking and Landlord shall undertake materially to restore the Premises. Said rent shall be adjusted, however, to reflect a decrease in the usability and the quality of the Premises, including but not limited to such things as less desirable access, parking, visibility, signage, etc. Landlord or Tenant, as the case may be, shall exercise its right to terminate this Lease provided above in this Paragraph 4.6 by written notice to the other party within thirty (30) days of the date of such actual physical taking. Notwithstanding any language contained in this Lease to the contrary, Landlord's obligation to materially restore the Premises shall be limited to the amount of condemnation proceeds made available to the Landlord for such restoration and repair (after any right of any mortgagee to said proceeds); if such proceeds is not sufficient to materially restore the Premises and the Building (except for any improvements, fixtures, finishes, or personalty that may have been placed in or about the Premises by Tenant), Landlord or Tenant shall have the right to terminate this Lease effective as of the date of such actual physical taking. Tenant shall not share in any condemnation award or payment in lieu thereof or in any award for damages resulting from any grade change of adjacent streets, the same being hereby assigned to Landlord by Tenant; however, Tenant may separately claim and receive from the condemning authority (but not from Landlord), if legally payable, compensation

for Tenant's removal and relocation costs and for Tenant's loss of business and/or business interruption, provided that such claim and recovery shall in no way diminish Landlord's recovery. Notwithstanding anything to the contrary contained in this Paragraph 4.6, if during the Lease Term the use or occupancy of any part of the Building or Premises shall be taken or appropriated temporarily for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or by private agreement in lieu thereof, this Lease shall be and remain unaffected by such taking or appropriation and Tenant shall continue to pay in full all rent payable hereunder by Tenant during the term of this Lease or private agreement in lieu thereof; in the event of any such temporary appropriation or taking, Tenant shall be entitled to receive that portion of any award which represents compensation for the loss of use or occupancy of the Premises during the term of this Lease, and Landlord shall be entitled to receive that portion of any award which represents the cost of restoration and compensation for the loss of use or occupancy of the Premises after the end of the term of this Lease and of the Building.

4.7 Landlord's Right to Enter Premises. Tenant shall report to Landlord immediately in writing any damage to or defective condition in or about the Building or Premises known to Tenant. Tenant shall not change the locks on any entrance to the Premises. Upon provision of prior notice to Tenant, Landlord and its agents, employees, and contractors shall have the right to enter the Premises at such times as Landlord deems reasonably necessary to make inspections, to exhibit the Premises to prospective purchasers and tenants and to make necessary repairs, additions, alterations, and improvements to the Building, including, without limitation, the erection, use, and maintenance of pipes and conduits. Landlord shall also be allowed to take into and through the Premises any and all needed materials that may be required to make such repairs, additions, alterations, and improvements, all without being liable to Tenant in any manner whatsoever, during such time as work is carried out in a manner so as to not interfere unreasonably with the conduct of Tenant's business therein, the rent provided herein shall in no wise abate, and Tenant waives any claim and cause of action against Landlord for damages by reason of loss or interruption to Tenant's business and profits therefrom because of the prosecution of any such work or any part thereof. In the event of emergency, or if otherwise necessary to prevent injury to persons or damage to property, such entry to the Premises may be made without notice to Tenant and by force without any liability whatsoever on the part of Landlord for damage resulting from such forcible entry.

## V USE AND SERVICES

5.1 Use. Tenant shall use the Premises for general office purposes and no other purpose. Tenant shall not use the Premises for any illegal purpose, nor violate any statute, regulation, rule, or order of any governmental body in its use thereof, nor create or allow to exist any nuisances or trespasses, nor do any act in or about the Premises or bring anything onto or into the Premises which will in any way increase the premium for insurance on the Premises or the Building, nor deface or injure the Premises or overload the floor of the Premises.

5.2 Utility and Other Charges. Tenant shall promptly pay and discharge, directly to the

providing utility if possible, as and when the same become due, all charges incurred in connection with water and electricity to the Premises. In the event there is a single meter to the Building, Tenant shall pay a pro rata share of the utilities as determined by Landlord as additional rent.

5.3 Real Estate Taxes. Tenant shall promptly pay all personal property taxes with regard to Tenant's personal property on or before the date that the same become due and payable. Landlord shall pay the real estate taxes, with no right of proportionate reimbursement from Tenant.

5.4 Tenant's Failure to Pay. In the event that Tenant shall fail, after written notice from Landlord and 15 days to cure, to pay any of the foregoing items required by this Article to be paid by Tenant, Landlord may (but shall be under no obligation to) pay the same; and any amounts so advanced therefor by Landlord shall become an additional obligation of Tenant hereunder, which amounts shall constitute additional rental hereunder, payable by Tenant upon receipt of demand therefor.

## VI COMPLIANCE WITH LAWS

6.1 Compliance With Laws. Tenant shall comply, at its own expense, with all statutes, regulations, rules, ordinances, and orders of any governmental body, department, or agency thereof which apply to or result from Tenant's use or occupancy of the Building and the Premises.

## VII INSURANCE, LIABILITY, AND INDEMNIFICATION

### 7.1 Insurance.

(a) Tenant shall carry fire and extended coverage insurance insuring all partitions, fixtures, additions and other property placed in or about the Premises, and any and all furniture, equipment, supplies, and other property contained therein, such insurance coverage to be in the full replacement value thereof less reasonable deductible.

(b) Tenant also agrees to carry a policy or policies of worker's compensation and comprehensive general liability insurance, including personal injury and property damage, with contractual liability endorsement, in the amount of One Million Dollars (\$1,000,000) for property damage and One Million Dollars (\$1,000,000) for occurrence for personal injuries or deaths of persons occurring in or about the Premises.

(c) Said insurance policies as described in the foregoing Paragraphs (a) and (b) shall: (i) name Landlord as an insured and insure Landlord's contingent liability under this Lease (except for the worker's compensation policy, which shall instead include a waiver of subrogation endorsement in favor of Landlord), (ii) be issued by an insurance company which is reasonably acceptable to Landlord and licensed to do business in the State of South Carolina, and (iii)

provide that said insurance shall not be canceled unless thirty (30) days prior written notice shall have been given to Landlord. Said policy or policies, or certificates thereof, shall be delivered to Landlord by Tenant upon commencement of the term of the Lease and upon each renewal of said insurance.

(d) In addition to insurance for the Premises, Landlord shall carry and pay for fire, casualty, wind and hail insurance on the Building in an amount equal to the full replacement cost of the Building, with no right of proportionate reimbursement from Tenant.

7.2 Waiver of Subrogation. Landlord and Tenant each hereby releases the other from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation or otherwise for any loss of damage to property caused by fire or any other perils insured in policies of insurance covering such property, even if such loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible, including without limitation any other tenants or occupants of the remainder of the Building; provided, however, that this release shall be applicable and in force and effect only to the extent that such release shall be lawful at that time and in any event only with respect to loss or damage occurring during such time as the releasor's policies shall contain a clause or endorsement to the effect that any such release shall not adversely affect or impair said policies or prejudice the right of the releasor to recover thereunder and then only to the extent of the insurance proceeds paid under such policies.

7.3 Indemnify. Either party (the "Indemnifying Party") shall indemnify and shall hold the other harmless from and defend the other party against any and all claims, demands, liability, costs, losses or expenses (including attorney's fees and costs) for any injury or death to any person or damage to any property whatsoever arising out of or in any way relating to any act or omission of the Indemnifying Party or Indemnifying Party's agents, employees, contractors, invitees, licensees, tenants or assignees. In case any action or proceeding be brought against the other party by reason of any claims or liability, the Indemnifying Party agrees to cause such action or proceeding to be defended at Indemnifying Party's sole expense by counsel reasonably satisfactory to the other party. The provisions of this Lease with respect to any claims or liability occurring or caused prior to any expiration or termination of this Lease shall survive such expiration or termination.

7.4 Liability of Landlord. Except as otherwise expressly provided herein, Landlord shall not be liable to Tenant or to any person, firm, corporation, or other business association claiming by, through or under Tenant for failure to furnish or for delay in furnishing any service provided for in this Lease, and no such failure or delay by Landlord shall be an actual or constructive eviction of Tenant nor shall any such failure or delay operate to relieve Tenant from the prompt and punctual performance of each and all the covenants to be performed herein by Tenant; nor for any latent defects in the Premises or Building; nor for defects in the cooling, heating, electric, water, elevator, or other apparatus or systems or for water discharged from sprinkler systems, if any, in the Building; nor for the theft, mysterious disappearance, or loss of any property of Tenant whether from Premises or any part of the Building. Landlord shall not be liable for any interference, disturbance, or act whether caused by another tenant or tenants of Landlord or other person, nor shall Tenant be relieved from any obligation herein because of such interference,

disturbance, or act. No officer, director, shareholder, or partner of Landlord, or of any partner of Landlord, shall have any personal liability whatsoever with respect to this Lease. Further, Landlord's obligations and liabilities under this Lease shall be limited solely to Landlord's interest in the Building, as such interest is constituted from time to time.

## VIII DEFAULT AND RELATED REQUIREMENTS

### 8.1 Default and Remedies.

(a) The occurrence of any of the following shall constitute an event of default:

(i) The rent (including any additional rent) and any other sum of money payable under this Lease, whether to Landlord or other wise, is not paid within fifteen (15) days of the due date thereof;

(ii) Tenant's interest in the Lease or the Premises shall be subjected to any attachment, levy, or sale pursuant to any order or decree entered against Tenant in any legal proceeding and such order or decree shall not be vacated within thirty (30) days of entry thereof; or

(iii) Tenant breaches or fails to comply with any term, provision, condition, or covenant of this Lease, other than the payment of rent, or with any of the Rules and Regulations now or hereafter established from time to time by Landlord to govern the operation of the Building and such breach or failure is not cured with fifteen (15) days, or such longer period as is necessary if such default is incapable of being cured within fifteen (15) days provided that Tenant has commenced and is diligently pursuing cure, after written notice of such breach or failure is given to Tenant.

(b) Upon the occurrence of an event of default, and following application of any notice and cure period, Landlord shall have to option to do and perform any one or more of the following in addition to, and not in limitation of, any other remedy or right permitted it by law or in equity or by this Lease:

(i) Landlord, with or without terminating this Lease, may immediately or at any time thereafter re-enter the Premises and correct or repair any condition which shall constitute a failure on Tenant's part to keep, observe, perform, satisfy, or abide by any term, condition, covenant, agreement, or obligation of this Lease or of the Rules and Regulations now in effect or hereafter adopted or of any notice given Tenant by Landlord pursuant to the terms of this Lease, and Tenant shall fully reimburse and compensate Landlord on demand for all reasonable expenses.

(ii) Landlord, with or without terminating this Lease, may immediately or at any time thereafter demand in writing that Tenant vacate the Premises and thereupon

Tenant shall vacate the Premises and remove therefrom all property thereon belonging to or placed on the Premises by, at the direction of, or with consent of Tenant within sixty (60) days of receipt by Tenant of such notice from Landlord, whereupon Landlord shall have the right to re-enter and take possession of the Premises. Any such demand, re-entry and taking possession of the Premises by Landlord shall not of itself constitute an acceptance by Landlord of a surrender of this Lease or of the Premises by Tenant and shall not of itself constitute a termination of this Lease by Landlord.

iii) Landlord, with or without terminating this Lease, may immediately or at any time thereafter re-enter the Premises and remove therefrom Tenant and all property belonging to or placed on the Premises by, at the direction of, or with consent of Tenant. Any such re-entry and removal by Landlord shall not of itself constitute an acceptance by Landlord of a surrender of this Lease or of the Premises by Tenant and shall not of itself constitute a termination of this Lease by Landlord.

(iv) Landlord, with or without terminating this Lease, may immediately or at any time thereafter relet the Premises or any part thereof for such time or times, at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable, and Landlord may make any alterations or repairs to the Premises which it may deem necessary or proper to facilitate such reletting; and if this Lease shall not have been terminated, Tenant shall continue to pay all rent and all other charges due under this Lease up to and including the date of beginning of payment of rent by any subsequent tenant of part or all of the Premises, and thereafter Tenant shall pay monthly during the remainder of the term of this lease the difference, if any, between the rent and other charges collected from any such subsequent tenant or tenants and the rent and other charges reserved in this Lease, but Tenant shall not be entitled to receive any excess of any such rents collected over the rents reserved herein.

(v) Landlord may immediately or at any time thereafter terminate this Lease, and this Lease shall be deemed to have been terminated upon receipt by Tenant of written notice of such termination; upon such termination Landlord shall recover from Tenant all damages Landlord may suffer by reason of such termination including, without limitation, unamortized sums expended by Landlord for construction of Tenant Improvements, all arrearage in rentals, costs, charges, additional rentals, and reimbursements, the cost (including court costs and attorneys' fees) of recovering possession of the Premises, and, in addition thereto, Landlord at its election shall have and recover from Tenant either (1) an amount equal to the excess, if any, of the total amount of all rents and other charges to be paid by Tenant for the remainder of the term of this Lease over the then reasonable rental value of the Premises for the remainder of the term of this Lease, or (2) the rents and other charges which Landlord would be entitled to receive from Tenant pursuant to the provisions of subparagraph 8.1 (b) (iv) if the Lease were not terminated. Such election shall be made by Landlord by serving

written notice upon tenant of its choice of one of the two said alternatives within thirty (30) days of the notice of termination.

(c) No course of dealing between Landlord and Tenant or any failure or delay on the part of Landlord in exercising any rights of Landlord under this Paragraph 8.1 or under any other provisions of this Lease shall operate as a waiver of any rights of Landlord hereunder or under any other provisions of this Lease, nor shall any waiver of a default on one occasion operate as a waiver of any subsequent default or any other default. No express waiver shall affect any condition, covenant, rule, or regulation other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

(d) The exercise by Landlord of any one or more of the rights and remedies provided in this Lease shall not prevent the subsequent exercise by Landlord of any one or more of the other rights and remedies herein provided. All remedies provided for in this Lease are cumulative and may, at the election of Landlord, be exercised alternatively, successively, or in any other manner, and all remedies provided for in this Lease are in addition to any other rights provided for or allowed by law or in equity.

8.2 Insolvency or Bankruptcy. The appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or an assignment of Tenant for the benefit of creditors, or any action taken or suffered by Tenant or any action against Tenant under any insolvency, bankruptcy, or reorganization act, shall at Landlord's option constitute an event of default under this Lease. Upon the happening of any such event of default or at any time thereafter, this Lease shall terminate five (5) days after written notice of termination from Landlord to Tenant. In no event shall this Lease be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency, or reorganization proceedings.

8.3 Late Payments. Tenant shall pay, as a late charge in the event any installment of rent, additional rent, or other charge to be paid by Tenant hereunder is not paid within fifteen (15) days of when due, the greater of \$100.00 or an amount equal to five percent (5%) of the amount due (but in no event shall the amount of such late charge exceed an amount based upon the highest legally permissible rate chargeable at any time by Landlord under the circumstances). Tenant shall also pay, as a late charge, an amount equal to one and one-half percent (1.5%) of the amount due to Landlord hereunder, for each thirty (30) day period that such amount remains unpaid, commencing upon the end of the first (1st) thirty (30) day period after the due date of such amount. Should Tenant make a partial payment of past due amounts, the amount of such partial payment of past due amounts, the amount of such partial payment shall be applied first to reduce all accrued and unpaid late charges, in inverse order of their maturity, and then to reduce all other past due amounts, in inverse order of their maturity. If any rent, additional rent, or other debt owing by one party to the other hereunder is collected by or through an attorney at law, the prevailing party shall be entitled to collect its reasonable actual attorneys' fees and costs incurred in the collection of such rent or other debt.

8.4 Waiver of Homestead. Tenant hereby waives and renounces all homestead or

exemption rights which Tenant may have under or by virtue of the Constitutions and Laws of the United States, the State of South Carolina, and any other State, as against any debt or sum Tenant may owe Landlord under this Lease and hereby transfers, conveys, and assigns to Landlord all homestead or exemption rights which may be allowed or set apart to Tenant, including such as may be set apart in any bankruptcy proceeding, to pay any debt or sum owing by Tenant to Landlord hereunder.

8.5 No Waiver of Rights. No failure or delay of Landlord to exercise any right or power given it herein or to insist upon strict compliance by Tenant of any obligation imposed on it herein and no custom or practice of either party hereto at variance with any term hereof shall constitute a waiver or a modification of the terms hereof by Landlord or any right it has herein to demand strict compliance with the terms hereof by Tenant. No person has or shall have any authority to waive any provision of this Lease unless such waiver is expressly made in writing and signed by an authorized officer of Landlord.

## IX MISCELLANEOUS PROVISIONS

9.1 Broker. Each party represents and warrants to the other that, no broker, agent, commission salesman, or other person has represented Tenant in the negotiations for and procurement of this Lease and of the Premises and that no commissions, fees, or compensation of any kind are due and payable in connection herewith to any broker, agent, commission salesman, or other person. Tenant agrees to indemnify and hold Landlord harmless from any and all claims, suits, demands, costs, liability, or judgments (including, without limitation, reasonable attorney's fees and court costs incurred in connection with any such claims, suits, or judgments or in the enforcement of this indemnity) for any fees, commissions connected with any claimed agency relationship with Tenant. Tenant further agrees that, in the event (i) this Lease shall terminate prior to the Expiration Date as a result of any default hereunder by Tenant, or (ii) Landlord shall exercise any of Landlord's rights and remedies pursuant to Paragraph 8.1 (b) as a result of Tenant's default, whether or not this Lease is terminated, then in either of such events Tenant shall reimburse Landlord for the amount of any commission owing or paid to any such broker or brokers with respect to this Lease, or any portion of the term hereof, after such default.

9.2 Addresses and Notices. All notices or other communications required or desired to be given with respect to this Lease shall be in writing and shall be delivered by hand or by courier service to the Premises (if to Tenant) or the address hereinafter provided, or sent by registered or certified mail, return receipt requested, bearing adequate postage and properly addressed as hereinafter provided. Each notice given by mail shall be deemed given and received on the date such notice shall have been postmarked by the U.S. Postal Service; each notice delivered by hand or by courier service shall be deemed to have been given and received when actually received by the party intended to receive such notice. In the event of a change of address by either party, such party shall give written notice thereof in accordance with the foregoing, except that such notice of change of address shall be deemed to have been given only when actually received.

a. Landlord: Rollin McKim and Janice McKim

N:\Directory\joanne\real-estate\leases\wilsonst

20 Towne Square, PMB 390  
Bluffton, SC 29910

b. Tenant: Dennis Corporation  
5000 Thurmond Mall, Suite 114  
Columbia, South Carolina 29201  
Attention: Daniel R. Dennis, III

Rejection or other refusal to accept or inability to deliver because of changed address or status of which no notice was given shall be deemed to be receipt of the notice sent.

9.3 Entire Agreement and Exhibits. This Lease constitutes and contains the sole and entire agreement of Landlord and Tenant and no prior or contemporaneous oral or written representation or agreement between the parties and affecting the Premises shall have legal effect. The content of each and every exhibit which is referenced in this Lease as being attached hereto is incorporated into this Lease as fully as if set forth in the body of this Lease.

9.4 Subordination and Attornment. This Lease and all rights of Tenant hereunder are and shall be subject and subordinate to the lien of any mortgage, deed to secure debt, deed of trust, or other instrument in the nature thereof which may now or hereafter affect Landlord's fee title to the Premises and to any other instrument encumbering the fee title of the Premises and to any modifications, renewals, consolidations, extensions, or replacements thereof, including, without limitation, any declaration of covenants, conditions, and restrictions, and amendments thereto, that may not or hereafter affect Landlord's fee title to the Premises. The above subordination shall be self-operative, and no further instrument of subordination shall be necessary to evidence such subordination. In confirmation of such subordination, Tenant shall, upon demand, at any time or times, execute, acknowledge, and deliver to Landlord or the holder of any such mortgage, deed to secure debt, deed of trust, or other instrument, without expense, any and all instruments that may be requested by Landlord or such holder to evidence the subordination of this Lease and all rights hereunder to the lien of any such mortgage, deed to secure debt, deed of trust, or other instrument, and each such renewal, modification, consolidation, replacement, and extension thereof, and if Tenant shall fail at any time, within ten (10) days following the giving of a written request therefor, to execute, acknowledge, and deliver any such instrument, Landlord or such holder, in addition to any other remedies available to it in consequence thereof, may execute, acknowledge, and deliver the same as the attorney-in-fact of Tenant and in Tenant's name, place, and stead, and Tenant hereby irrevocably makes, constitutes, and appoints Landlord or such holder, and their respective successors and assigns, such attorney-in-fact for that purpose. Tenant shall, upon demand, at any time or times, execute, acknowledge, and deliver to Landlord or to the holder of any mortgage, deed to secure debt, deed of trust, or other instrument affecting or encumbering the fee title of the Premises, without expense, any and all instruments that may be necessary to make this Lease superior to the lien of any such mortgage, deed to secure debt, deed of trust or other instrument, and each renewal, modification, consolidation, replacement, and extension thereof, and, if Tenant shall fail at any time, within ten (10) days following the giving of a written request therefor, to execute, acknowledge, and deliver any such instrument, Landlord or such holder, in addition to any other remedies available to it in consequence thereof, may execute, acknowledge, and deliver the same as the attorney-in-fact of

Tenant and in Tenant's name, place, and stead, and Tenant hereby irrevocably makes, constitutes, and appoints Landlord or such holder, and their respective successors and assigns, such attorney-in-fact for that purpose. If the holder of any mortgage, deed to secure debt, deed of trust or other instrument affecting or encumbering the fee title of the Premises shall hereafter succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease, Tenant shall, at the option of such holder, attorn to and recognize such successor as Tenant's landlord under this Lease and shall promptly execute and deliver any instrument that may be necessary to evidence such Attornment, and Tenant hereby irrevocably appoints Landlord or such holder the attorney-in-fact of Tenant to execute and deliver such instrument on behalf of Tenant should Tenant refuse and fail to do so within ten (10) days after Landlord or such holder shall have given notice to Tenant requesting the execution and delivery of such instrument. Upon such Attornment, this Lease shall continue in full force and effect as a direct lease between such successor landlord and Tenant, subject to all of the terms, covenants, and conditions of this Lease.

9.5 Estoppel Certificate. At any time and from time to time, Tenant, on or before the date specified in a request therefor made by Landlord, which date shall not be earlier than ten (10) days from the making of such request, shall execute, acknowledge, and deliver to Landlord a certificate evidencing whether or not (i) this Lease is in full force and effect, (ii) this Lease has been amended in any way, (iii) there are any existing defaults on the part of Landlord hereunder to the knowledge of Tenant and specifying the nature of such default, if any, (iv) the date to which rent, and other amounts due hereunder, if any, have been paid, and (v) any other reasonable information pertaining to the Lease or to the Premises that Landlord may request. Each certificate delivered pursuant to this Paragraph may be relied on by any prospective purchaser or transferee of Landlord's interest hereunder or of any part of Landlord's property or by any mortgagee of Landlord's interest hereunder or of any part of Landlord's property or by an assignee of any such mortgagee.

9.6 Severability. If any clause or provision of this Lease is or becomes illegal, invalid, or unenforceable because of present or future laws or any rule or regulation of any governmental body or entity, effective during its term, the intention of the parties hereto is that the remaining parts of this Lease shall not be affected thereby, unless such invalidity is, in the sole determination of Landlord, essential to the rights of both parties in which event Landlord has the right to terminate this Lease on written notice to Tenant.

9.7 Captions. The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.

9.8 Successors and Assigns. The provisions of this Lease shall inure to the benefit of and be binding upon Landlord and Tenant, and their respective successors, heirs, legal representatives, and assigns. It is understood and agreed that the term "Landlord", as used in this Lease, means only the owner(s) from time to time of the Building and/or the land underlying the Building.

9.9 Applicable Law. The laws of the State of South Carolina shall govern the interpretation, validity, performance, and enforcement of this Lease.

9.10 Time is of the Essence. Time is of the essence of this Lease.

9.11 Execution. This lease may be executed in any number of counterparts, each of which shall be deemed an original and any of which shall be deemed to be complete in itself and may be introduced into evidence or used for any purpose without the production of the other counterparts. No modification or amendment of this Lease shall be binding upon the parties unless such modification or amendment is in writing and signed by Landlord and Tenant.

9.12 Force Majeure. Landlord shall be excused for the period of any reasonable delay and shall not be deemed in default with respect to the performance of any of the terms, covenants, and conditions of this Lease when prevented from so doing by a cause or causes beyond the Landlord's control, which shall include, without limitation, all labor disputes, governmental regulations or controls, fire or other casualty, inability to obtain any material services, acts of God, inclement weather or any other cause not within the reasonable control of the Landlord ("Force Majeure").

9.13 Multiple Tenants. If more than one individual or entity comprises and constitutes Tenant, then all individuals and entities comprising Tenant are and shall each be jointly and severally liable for the due and proper performance of Tenant's duties and obligations arising under or in connection with this Lease.

9.14 No Recordation of Lease. This Lease is not in recordable form, and Tenant agrees not to record or permit the recording of this Lease. Landlord agrees, at Tenant's request, to record a Memorandum of Lease memorializing the Lease and setting forth the Tenant's right of first refusal provided for below.

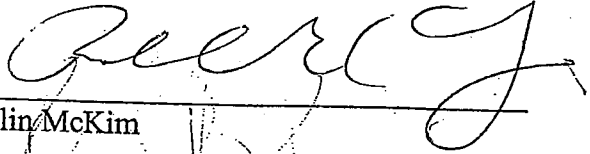
9.15 Right of First Refusal. As additional consideration for the rents paid hereunder, Landlord hereby grants to Tenant a right of first refusal to purchase the Building on the same terms and conditions as any offer presented to Landlord. Prior to any conveyance of the Building by Landlord, Landlord shall submit to Tenant in writing the terms on which Landlord has agreed to sell the Building (the "Offer"). Tenant shall have thirty (30) days (the "Offer Period") from receipt of such written notice to notify Landlord of its election to purchase the Building on the same terms as the Offer. If Tenant notifies Landlord in writing of its election to purchase the Building on the terms set forth in the Offer, Landlord shall sell the Building to Tenant on such terms. Closing shall occur within thirty (30) days of such notice from Tenant to Landlord. Landlord shall be responsible for such closing costs as are customary in Beaufort County, South Carolina for sellers and Tenant shall be responsible for buyer's customary closing costs. In the event that Tenant does not notify Landlord of its intention to purchase the Building within the Offer Period, Tenant shall be deemed to have waived its right of first refusal and Landlord may proceed to sell the Building at the terms set forth in the Offer; provided however, Landlord may not sell the Building on any terms different from those set forth in the Offer.

9.16. Publicity/Confidentiality: All notices to third parties (including employees) and other publicity concerning the transaction contemplated by this Lease shall be jointly planned and coordinated by and among the parties hereto. Each party recognizes the need for confidentiality of certain information pertaining both to this transaction. Therefore, each party and their agents and representatives will hold in strict confidence all data and information obtained from the other or any of their officers, agents or representatives pertaining to this Lease; provided however, that nothing contained in this paragraph 9.16 shall prohibit either party from disclosing the terms of this Lease to its respective lender, accountant, attorney, or to any governmental agency which may require a copy.

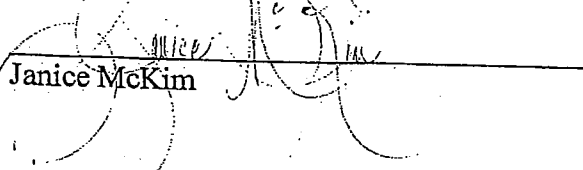
*Signature page to follow.*

IN WITNESS WHEREOF, the parties hereto have duly executed this instrument in duplicate, individually or through their respective authorized officers, agents, or attorneys-in-fact, as the case may be, causing their respective seals to be affixed hereto, the day and year set forth to the left of their respective executions, the latest of which is and shall be deemed to be the date of this Lease.

Landlord:



Rollin McKim

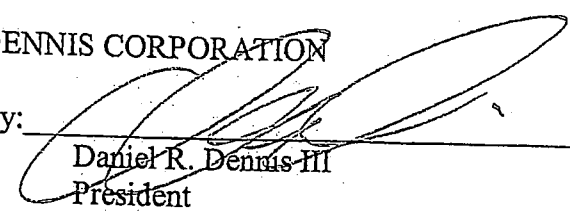


Janice McKim

Tenant:

DENNIS CORPORATION

By:



Daniel R. Dennis III  
President



STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

IN THE COURT OF COMMON PLEAS

JRC Properties, LLC, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Dennis Corporation, a South Carolina )  
Corporation, and Daniel R. Dennis, III, )  
 )  
Defendants. )  
 )

C.A. No.: 2012-CP-07-3120

**DEFENDANTS' SUPPLEMENTAL  
RESPONSES TO PLAINTIFF'S  
FIRST REQUEST FOR PRODUCTION**

1. **Copies of any and all documents you were requested to identify in the Plaintiff's First Interrogatories, and any and all documents referred to in your answers to the Plaintiff's First Interrogatories.**

Attached are copies of the lease; pictures of the premises after they were vacated; copies of checks from Beaufort County; and copies of payments made by the Defendants to any and all other entities between January 21, 2011 and July 12, 2011.

2. **A copy of the contract with Beaufort County referenced in paragraphs 2.2 of the parties' Office Lease, form January of 2008.**

Attached.

3. **A copy of the "separate contract" referenced in paragraph 15 of the Answer of Defendants, dated December 2, 2013.**

There was no separate contract with Beaufort County relative to this matter.

4. **Copies of any and all checks, drafts, statements, check stubs and/or registers reflecting payment to the Defendants, by Beaufort County, for services rendered between January of 2008 and January of 2012.**

The Defendants are gathering these documents and they will be produced no later than Friday, June 13, 2014..

5. **Copies of any and all checks, drafts, statements, check stubs and/or registers reflecting payment by the Defendant to any sub consultants, firms and/or any**

persons or entities who provided services or materials to the Defendants, during their tenancy of the leased property between January 21, 2011 and July 12, 2011.

Attached.

6. Copies of any and all documents identified in your response to Plaintiff's First Interrogatory No. 15.

No documents were identified.

7. Copies of any and all documents identified in your response to Plaintiff's First Interrogatory No. 16.

No documents were identified.

8. Copies of any and all documents identified in your response to Plaintiff's First Interrogatory No. 17

No documents were identified.

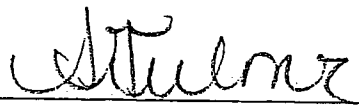
8. Copies of any and all documents identified in your response to Plaintiff's First Interrogatory No. 18

No documents were identified.

8. Copies of any and all documents identified in your response to Plaintiff's First Interrogatory No. 19

No documents were identified.

MOORE TAYLOR LAW FIRM, P.A.

BY: 

S. Jahue Moore  
1700 Sunset Boulevard  
P. O. Box 5709  
West Columbia, SC 29171  
(803) 796-9160

ATTORNEYS FOR DEFENDANTS

West Columbia, South Carolina  
June 5, 2014



www.denniscorporation.com

January 21, 2011

JRC Properties, LLC  
20 Towne Drive, PMB 390  
Bluffton, SC 29910

Dear Rollin:

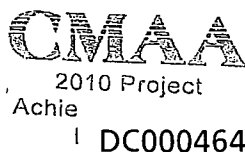
Effective January 31, 2011, Dennis Corporation will terminate our lease agreement per paragraph 2.2 of the lease.

If you have any questions, please feel free to contact me at 803.600.3667.

Sincerely,

Daniel R. Dennis, III  
President

1800 Huger Street ♦ Columbia ♦ South Carolina ♦ 29201 ♦ Ph 803-252-0991 ♦ Fax 803-733-6787





STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

JRC PROPERTIES, LLC,

Plaintiff

v.

DENNIS CORPORATION, a South  
Carolina Corporation, and DANIEL R.  
DENNIS, III,

Defendants.

IN THE COURT OF COMMON PLEAS  
CASE NO. 2012-CP-07-3120

**PLAINTIFF'S FIRST REQUEST  
FOR ADMISSIONS**

TO: THE ABOVE-NAMED DEFENDANTS, AND ATTORNEY:

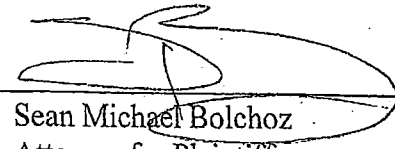
Please take notice that the Plaintiff, by and through its undersigned attorney, hereby serves the following request for admissions upon you pursuant to Rule 36 of the South Carolina Rules of Civil Procedure:

**ADMIT OR DENY THE FOLLOWING:**

1. That the letter signed by Defendant Daniel R. Dennis, III and dated January 21, 2011, a copy of which is attached hereto as Exhibit "A", is genuine and authentic.
2. That the Defendants informed Beaufort County on February 8, 2011 that the parties' lease was terminated on January 31, 2013.
3. That the Defendants made no rental payments to the Plaintiff for the following months: October, November and December of 2010, and January of 2011.
4. That the letter from Plaintiff to Defendant Dennis Corporation and dated February 11, 2011, a copy of which is attached hereto as Exhibit "B", is genuine and authentic.
5. That Defendant Daniel R. Dennis, III accompanied Plaintiff's representative on an inspection of the leased premises and reviewed physical damage to the leased premises during such inspection.

**BOLCHOZ LAW FIRM, PA**

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

  
Sean Michael Bolchoz

Attorney for Plaintiff

6 Buckingham Plantation Drive, Suite B

P.O. Box 828

Bluffton, SC 29910

(843) 836-3033

Bluffton, South Carolina

January 3<sup>rd</sup>, 2014

\\Scanbolchoz-pc\H to M Clients\McKin, Rollin - BL006\request - to admit.wpd



STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

IN THE COURT OF COMMON PLEAS

JRC Properties, LLC,

Plaintiff,

vs.

Dennis Corporation, as South Carolina  
Corporation, and Daniel R. Dennis, III,

Defendants.

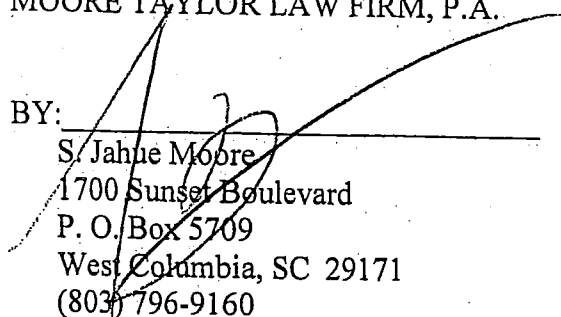
C.A. No.: 2012-CP-07-3120

RESPONSE TO REQUEST TO ADMIT

1. Admit.
2. Denied.
3. Denied.
4. It is admitted that this letter was sent from the Plaintiff to Defendant.
5. Denied.

MOORE TAYLOR LAW FIRM, P.A.

BY:

  
St. Jahne Moore  
1700 Sunset Boulevard  
P. O. Box 5709  
West Columbia, SC 29171  
(803) 796-9160

ATTORNEY FOR THE DEFENDANTS

West Columbia, South Carolina  
January 14, 2014



## VERIFIED STATEMENT OF ACCOUNT

JRC PROPERTIES, LLC

v.

DENNIS CORPORATION, a South Carolina Corporation, and DANIEL R. DENNIS, III

Total rent due from October 2010, November 2010,  
December 2010 and January 2011 \$ 19,962.68

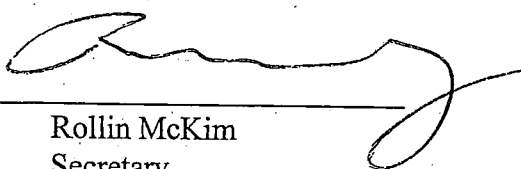
Accrued interest on total rent due \$ 13,325.08

Accrued late fees on total rent due \$ 998.12

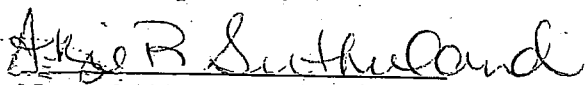
**TOTAL DUE** **\$ 34,285.88**

Personally appeared before me Rollin McKim who, being duly sworn, deposes and states that he is the Secretary of JRC Properties, LLC, Plaintiff in the within action, and that the foregoing statement of account reflects, to the best of his knowledge and belief, the actual sums due and owing from DENNIS CORPORATION, a South Carolina Corporation, and DANIEL R. DENNIS, III, as of the date hereof, exclusive of attorney's fees and costs.

**JRC PROPERTIES, LLC**

By:   
Rollin McKim  
Its: Secretary

Sworn to before me this  
3<sup>rd</sup> day of September, 2014.



Notary Public for South Carolina

**ANGIE R. SUTHERLAND**  
Notary Public, State of South Carolina  
My Commission Expires 10/31/2023

My Commission Expires: \_\_\_\_\_  
G:\H to M Clients\McKim, Rollin - BL006\verified statement of account.wpd



STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

IN THE COURT OF COMMON PLEAS

JRC Properties, LLC,

Plaintiff,

vs.

Dennis Corporation, a South Carolina  
Corporation, and Daniel R. Dennis, III,

Defendants.

C.A. No.: 2012-CP-07-3120

**DEFENDANTS' SUPPLEMENTAL  
RESPONSES TO PLAINTIFF'S  
FIRST INTERROGATORIES**

2. Give the names and address of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witness and indicate who has possession of such statements.

Dan R. Dennis, III  
c/o Dennis Corporation  
1800 Huger Street  
Columbia, SC 29201  
No statement taken.

Frank Hribar  
7 Indigo Springs Court  
Columbia, SC 29229  
No statement taken.

Amber Hunting  
1401 Sunnyside Drive  
Cayce, SC 29033  
No statement taken.

4. Identify every person known to you who may have any knowledge of, information of or possession of any of the documents or tangible objects referred to in response to the preceding Interrogatory.

Dan R. Dennis, III  
c/o Dennis Corporation  
1800 Huger Street  
Columbia, SC 29201

9. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witness.

Dan Dennis will testify with regard to the lease, the condition of the property, and payments made to the Plaintiff.

Frank Hribar will testify as to the files and equipment that he removed from the building and the condition of the building at that time.

Amber Hunting will testify that she supervised removal of furniture, boxes, appliances, miscellaneous office supplies and equipment from the building.

All will testify that the leased building was not damaged and left in reasonable condition for purposes as general office during January 2008 and January 2011.

13. Identify any and all payments made by Beaufort County to the Defendants between January 21, 2011 and July 12, 2011, setting forth the following information for each such payment: the payment amount, the date of payment and the purpose for such payment.

Attached are copies of all payments made by Beaufort County, dated January 21, 2011 through July 12, 2011, for professional services rendered.

14. Identify any and all payments made the Defendants to any and all sub consultants, firms and/or any persons or entities who provided services or materials to the Defendants, during their tenancy of the leased premises, between January 21, 2011 and July 12, 2011, setting forth the following information for each such payment: the payment amount, the date of payment and the purpose of such payment. The answer to this question is unknown but will be supplemented.

Attached are copies of any and all payments made to any and all sub consultants, firms and/or any persons or entities that provided services or materials to Defendants between January 21, 2011 and July 12, 2011.

15. Set forth the following information regarding the Defendants' monthly payments to the Plaintiff:

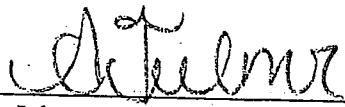
- a. For the October 2010 payment, the payment amount, the date of payment, manner of payment (i.e., check, cash, money order), and method of delivery of same;
- b. For the November 2010 payment, the payment amount, the date of payment, manner of payment (i.e., check, cash, money order), and method of delivery of same;
- c. For the December 2010 payment, the payment amount, the date of payment, manner of payment (i.e., check, cash, money order), and method of delivery of same;
- d. For the January 2011 payment, the payment amount, the date of payment, manner of payment (i.e., check, cash, money order), and method of delivery of same.

Defendants made no payments to the Plaintiff during the time period October 2010 through January 2011.

18. If you denied Plaintiff's Request for Admissions Number 3, set forth the grounds and/or factual basis for such denial, and identify any documentation in support of such denial.

At the time the Request for Admissions were responded to, it was not known to be true.

MOORE TAYLOR LAW FIRM, P.A.

BY: 

S. Jahue Moore  
1700 Sunset Boulevard  
P. O. Box 5709  
West Columbia, SC 29171  
(803) 796-9160

ATTORNEYS FOR DEFENDANTS

West Columbia, South Carolina  
June 5, 2014

**From:** Buckner, Perry M. Law Clerk (Thomas Crouch)  
**To:** [Angie Sutherland](#)  
**Cc:** [Sean Michael Bolchoz](#); [Jake Moore](#)  
**Subject:** RE: JRC Properties v. Dennis Corp; 2013-CP-07-2131  
**Date:** Friday, May 8, 2015 3:03:04 PM  
**Attachments:** [image001.png](#)

---

Angie,

My records show that the signed Order was sent to Jake Moore to file back in February.

Thomas Crouch  
Law Clerk to the Honorable Perry Buckner

---

**From:** Angie Sutherland [mailto:[admin@bolchozlaw.com](mailto:admin@bolchozlaw.com)]  
**Sent:** Friday, May 01, 2015 3:16 PM  
**To:** Buckner, Perry M. Law Clerk (Thomas Crouch)  
**Cc:** Sean Michael Bolchoz; Buckner, Perry M. Secretary (Cynthia Nettles)  
**Subject:** JRC Properties v. Dennis Corp; 2013-CP-07-2131

Dear Judge Buckner:

Please see attached.

With warm regards,



Angie Sutherland  
[admin@bolchozlaw.com](mailto:admin@bolchozlaw.com)  
Post Office Box 828 | 6 Buckingham Plantation  
Drive, Suite B  
Bluffton, South Carolina 29910  
Tel 843-836-3033 | Fax 843-836-3035

NOTE: The information contained in this message is confidential and may be protected by the attorney-client privilege and/or the work product doctrine. If you have received this electronic message in error, please reply to the sender and destroy this message.

~~~~ CONFIDENTIALITY NOTICE ~~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

JRC PROPERTIES, LLC,

Plaintiff

v.

DENNIS CORPORATION, a South  
Carolina Corporation, and DANIEL R.  
DENNIS, III,

Defendants.

IN THE COURT OF COMMON PLEAS  
CASE NO. 2013-CP-07-02131

**AFFIDAVIT OF ATTORNEY'S FEES**

Personally appeared before me, Sean Michael Bolchoz, Esquire, who, first being duly sworn, deposes and states the following:

1. I am an attorney duly licensed to practice law in the state of South Carolina, a principal of Bolchoz Law Firm, PA, in Bluffton, South Carolina.
2. I am counsel for the Plaintiff in the within case.
3. This action was commenced on or about August 19, 2013, for breach of contract, conversion and violation of the Unfair Trade Practices Act.
4. The Plaintiff is entitled to recovery of its attorney's fees pursuant to the terms of the lease agreement at issue in this case.
5. Time records are kept by Bolchoz Law Firm, PA of all services rendered and all costs advanced for each client individually, which records are maintained in the ordinary course of business by Bolchoz Law Firm, PA; time records of all services rendered and all costs advanced have been maintained, as well, for the Plaintiff herein.
6. I am informed and believe the below fees are fair and reasonable in taking into account the applicable standards applied in *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 427 S.E.2d 659 (1993), namely: i) the nature, extent and difficulty of the legal services rendered; ii) the time and labor necessarily devoted to the case; iii) the professional standing of counsel; iv) the contingency of compensation; v) the fee

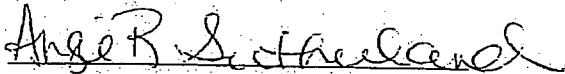
customarily charged in the locality for similar legal services; and vi) the beneficial results obtained.

7. The total amount of attorney's fees and costs that have been incurred by the Plaintiff in connection with this action, as well as anticipated fees and costs due and owing to Bolchoz Law Firm, PA, is Twelve Thousand One Hundred Twenty-Five and No/100 (\$12,125.00) Dollars.
8. An itemized statement of both actual and estimated attorney's fees is attached hereto as Exhibit "A" and incorporated herein by reference.

**FURTHER SAYETH AFFIANT NOT.**

  
Sean Michael Bolchoz

Sworn to before me this  
9 day of February, 2015.

  
Notary Public for South Carolina

**ANGIE R. SUTHERLAND**  
Notary Public, State of South Carolina  
My Commission Expires 10/31/2023

My Commission Expires: \_\_\_\_\_

- G:\H to M Clients\McKim, Rollin - BL006\affidavit - attorney fees.wpd

**EXHIBIT "A"**

**ITEMIZED STATEMENT OF ATTORNEY'S FEES AND COSTS**

---

|                                                             |                           |
|-------------------------------------------------------------|---------------------------|
| ATTORNEY'S FEES INCURRED:                                   | \$10,995.00               |
| ESTIMATED FUTURE FEES:<br>(Three Hours @ \$300.00 per hour) | \$900.00                  |
| COSTS & EXPENSES                                            | \$230.00                  |
| <b>TOTAL FEES AND COSTS:</b>                                | <b><u>\$12,125.00</u></b> |

**From:** Dukes, Marvin  
**To:** Sean Bolchoz; McLeod, Heather  
**Cc:** "Laura F. Obi"; "Jake Moore"; "Tammy Black"; "Curtis Coltrane"  
**Subject:** RE: JRC v. Dennis  
**Date:** Tuesday, November 3, 2015 10:30:06 AM  
**Attachments:** image001.png

---

Heather, please see if you can track this down.  
Jake, if you still have Order please expedite.

Best to all,

Marvin H. Dukes, III  
Master-in-Equity for Beaufort County  
Beaufort County Courthouse  
102 Ribaut Road, Room 212  
Post Office Drawer 1228  
Beaufort, SC 29901  
Office: 843.255.5710  
Fax: 843.255.9505

Neither this office, nor its staff gives legal, financial or other advice. Any information obtained from this office or it's staff, regardless of form, should not be taken as legal or financial advice. Persons seeking to purchase properties from foreclosures or other sales should obtain independent advice as to value, sufficiency of title, tax consequences, other liens, and all other matters related to said purchase. Persons involved in litigation should obtain counsel and may not rely on any information obtained from this office as legal advice. Do not rely on this office for legal advice- always obtain independent legal advice.

---

**From:** Sean Bolchoz [mailto:sbolchoz@bolchozlaw.com]  
**Sent:** Tuesday, November 03, 2015 10:01 AM  
**To:** Dukes, Marvin; McLeod, Heather  
**Cc:** 'Laura F. Obi'; 'Jake Moore'; 'Tammy Black'; 'Curtis Coltrane'  
**Subject:** JRC v. Dennis

Dear Judge Dukes:

As Your Honor may recall, counsel of record in this case and Curtis Coltrane had a status conference regarding the looming deadline to mediate this case. As a result of the conference, we were to circulate a consent order settling on Curtis as the mediator and setting the mediation conference for November 19.

On October 23, I sent Jake Moore (and his assistant, Tammy, at his request) a very simple consent order for his review and execution.

Not having received anything from counsel by October 29, my assistant sent Jake (and his assistant, Tammy) the draft consent order again. To date, we have received nothing.

I am writing, then, to determine if perhaps Jake sent the signed consent order directly to the Court, since he has sent nothing to us, nor responded to our inquiries. If so, I can go ahead and sign my signature page and courier the same to the courthouse.

Please just let me know.

Thanks,



**BOLCHOZ**  
**LAW FIRM, PA**

Sean Michael Bolchoz

[sbolchoz@bolchozlaw.com](mailto:sbolchoz@bolchozlaw.com)

Post Office Box 828 | 6 Buckingham Plantation Drive, Suite B  
Bluffton, South Carolina 29910

Tel 843-836-3033 | Fax 843-836-3035

NOTE: The information contained in this message is confidential and may be protected by the attorney-client privilege and/or the work product doctrine. If you have received this electronic message in error, please reply to the sender and destroy this message.

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF BEAUFORT )

C/A NO.: 2013-CP-07-02131

JRC Properties, LLC, )

Plaintiff, )

vs. )

Dennis Corporation, a South Carolina )  
Corporation, and Daniel R. Dennis, III, )

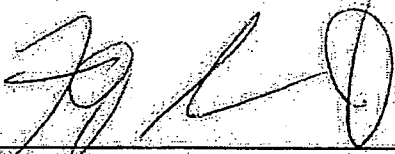
Defendants. )

**MOTION TO DISMISS**

13 DEC -5 PM 1:29  
BEAUFORT COUNTY S.C.  
CLERK OF COURT

TO: SEAN MICHAEL BOLCHOZ, ESQUIRE, ATTORNEY FOR THE PLAINTIFF:

The Defendants move to dismiss the Plaintiff's Complaint pursuant to South Carolina Rules of Civil Procedure 12b(3) improper venue. The grounds for this motion are that the Defendants are not residents of Beaufort County for venue purposes and venue is proper only in the County where one of the Defendants resides or has its principal place of business. Defendants move to transfer venue of the matter to Richland County. This motion shall be based on Affidavits of the Defendant, South Carolina case and strategy law and such other evidence that may be accepted by the Court.

  
\_\_\_\_\_  
Franklin J. Smith, Jr.  
Richardson Plowden & Robinson, P.A.  
1900 Barnwell Street (29201)  
P.O. Drawer 7788  
Columbia, SC 29202  
Phone: (803) 771-4400  
E-mail: [fsmith@richardsonplowden.com](mailto:fsmith@richardsonplowden.com)  
**Attorneys for Defendants**

December 2, 2013  
Columbia, South Carolina



IN THE COURT OF COMMON PLEAS  
CASE NO. 2012-CP-07-3120

CASE NO. 2012-CP-07-3120

**PLAINTIFF'S POST-TRIAL BRIEF  
AND MEMORANDUM OF LAW**

**PLAINTIFF'S POST-TRIAL BRIEF  
AND MEMORANDUM OF LAW**

**PLAINTIFF'S POST-TRIAL BRIEF  
AND MEMORANDUM OF LAW**

# PLAINTIFF'S POST-TRIAL BRIEF AND MEMORANDUM OF LAW

# PLAINTIFF'S POST-TRIAL BRIEF AND MEMORANDUM OF LAW

## INTRODUCTION

This matter was tried on January 25, 2016 before the Beaufort County Master-in-Equity. At the close of the evidence, the Defendants' counsel cross-examined the Plaintiff's counsel on attorney's fees incurred by the Plaintiff, as reflected in that certain affidavit of attorney's fees dated January 25, 2016 and filed with the Court. Subsequently, the Court instructed the parties to brief the Court on the issue of attorney's fees awards and the grounds for same. This post-trial brief and memorandum of law follows.

## BACKGROUND

This case has a long, unpleasant history. In 2008, the Plaintiff entered into a commercial lease of 6 Buckingham Plantation in Bluffton, South Carolina ("Lease") with Defendant Dennis Corporation ("Dennis Corp."), which is solely owned and operated by Defendant Dan Dennis ("Dennis"), the only individual with whom the Plaintiff dealt throughout the Lease term. Section 8 of the Lease provides that, upon termination, the Plaintiff is entitled to recover its costs of collection, including attorney's fees and costs, for unpaid rent, charges and other debt owing from the tenant. Beginning in October of 2010, Dennis simply stopped paying rent to the Plaintiff. In January of 2011, Dennis Corporation exercised its right to terminate the lease early, pursuant to

Section 2.2 of the written Lease. For the next two years, the Plaintiff's principal, Rollin McKim, desperately tried to resolve this matter and induce Dennis to pay the outstanding rent and accrued late charges, to no avail. Finally, at Dennis' invitation, the Plaintiff sued Dennis Corporation and Dennis in 2013; the lawsuit included three causes of action, to wit: breach of contract, conversion and violation of the S.C. Unfair Trade Practices Act ("UTPA").

From the outset, Dennis sought to obstruct and delay the resolution of this case. Initially, the Defendants were represented by Attorney Franklin Smith in Columbia, who filed an answer and motion to dismiss, which included a baseless motion to change venue to Richland County (despite a Lease of commercial property in Beaufort County); this motion had to be dealt with by Plaintiff's counsel.<sup>1</sup> Nowhere in Dennis' answer did he admit to owing at least \$15,000.00 plus late charges to the Plaintiff. Subsequently, Attorney Jake Moore took over as counsel for the Defendants; however, no motion to be relieved as counsel was ever filed by Smith and no notice of appearance was ever filed by Moore. Consequently, for the first year of this litigation and beyond, the Plaintiff served documents on both attorneys.

The Plaintiff sent initial discovery requests, including a request for admissions, in January of 2014. Request for Admissions Number 3 set forth as follows:

**ADMIT OR DENY THE FOLLOWING:**

3. That the Defendants made no rental payments to the Plaintiff for the following months: October, November and December of 2010, and January of 2011.

Dennis responded to this Request on January 14, 2014, as follows:

3. Denied.<sup>2</sup>

Given that this request and resulting denial constituted the essence of its breach of contract case, the Plaintiff obviously had no choice but to continue its pursuit of the Defendants. The remainder of the discovery responses were evasive and incomplete, which had to be dealt with by Plaintiff's counsel, who filed a motion to compel. The motion was subsequently resolved by consent order (prepared

---

<sup>1</sup>The term "dealt with" means, in the context of this brief, reviewed, assessed, researched, responded to and/or argued.

<sup>2</sup>Note that this denial is unaccompanied by any admission that Dennis owed at least \$15,000.00 plus late charges.

by Plaintiff's counsel) in May of 2014, which required Dennis to provide full and complete responses to all of the discovery requests by no later than June 6, 2014.

On June 5, Dennis served supplemental responses to the Plaintiff's interrogatories. The all-new response to Interrogatory Number 15 was as follows:

Defendants made no payments to the Plaintiff during the time period  
October 2010 through January 2011.

Also, in the supplemental response to Interrogatory Number 18, wherein the Defendants were asked for the factual basis for its denial of Request for Admissions Number 3, Dennis' new responses was:

At the time the request for admissions were responded to, it was not  
known to be true.

Clearly, Dennis' previous denial that he had failed to pay rent for the four months at issue had been retracted with this supplemental response.

However, Dennis also produced a copy of his written contract with Beaufort County; despite having repeatedly told the Plaintiff otherwise, the written contract did not contain an express provision requiring the Defendants to set aside monies received by the county to pay the Plaintiff for rent. Accordingly, the Plaintiff effectively abandoned its conversion cause of action<sup>3</sup> and, in September of 2014, filed a motion seeking summary judgment ("SJ Motion") on its claim for breach of contract alone.<sup>4</sup> At this time, Plaintiff's attorney's fees and costs of collection were \$12,125.00, as reflected in the attorney fee affidavit filed with the SJ Motion.

The SJ Motion was scheduled the following January for a February 10, 2015 hearing date. On February 9, Dennis' counsel (Jake Moore) contacted the presiding judge and requested that the hearing be continued to a later date. Despite the SJ Motion having been filed for four months, up to the date of his request for a continuance, Dennis had submitted no return and no counteraffidavits. Judge Perry Buckner held a status conference telephone call and the parties agreed that the summary

---

<sup>3</sup>Though it was asserted on a good faith basis, Plaintiff's counsel spent very little time developing the UTPA cause of action.

<sup>4</sup>As reflected in the SJ Motion, the Plaintiff effectively abandoned its claim for additional physical damages to the premises, as well.

judgment motion hearing would be continued and, further, the parties would simply submit their supporting documents and have Judge Buckner rule without the necessity of oral argument.

Having not yet received a decision from Judge Buckner by May of 2015, Plaintiff's counsel contacted the Court and was informed that an order denying summary judgment had been issued the previous February, and according to the clerk, sent to Jake Moore for service on opposing counsel. The undersigned never received an order from opposing counsel and, apparently, the Clerk of Court could not find the original order signed by Judge Buckner. Ultimately, however, an amended order denying summary judgment was issued, dated May 20, 2015. Judge Buckner held specifically in the order as follows:

However, in viewing the Plaintiff's First Request for Admissions and the Defendants' Responses in the light most favorable to the Defendants, attached to the Motion for Summary Judgment as Plaintiff's Exhibits D and E, respectively, there is a genuine issue of material fact as to whether the Plaintiff is owed four months of rent. Specifically, number three of the Request for Admissions asks the Defendants to admit or deny making no rental payments for October, November, and December of 2010, and January of 2011. *The Defendants deny making no rental payments for those four months in their Responses. Therefore, there still remains at least this genuine issue of material fact to be determined by jury.* (Emphasis supplied.)

Thus, Judge Buckner denied summary judgment based solely on Dennis' previous denial that he had failed to pay rent for those four months.<sup>5</sup>

After the denial of summary judgment, Plaintiff noticed the deposition of Dennis, both individually and as the 30(b)(6) witness for Dennis Corp., which was held in June of 2015 in Columbia. It was necessary for Plaintiff's counsel to spend the requisite amount of time preparing for the depositions, including reviewing the Lease terms, pleadings, orders, motions, discovery responses and background notes; researching the relevant Code sections and case law; preparing examination questions for the deponents; and assembling exhibits. At this point, the Plaintiff was

---

<sup>5</sup>It should be noted here that Dennis made no effort to disabuse Judge Buckner of his apparent belief that Dennis was standing by the original denial of Request for Admissions Number 3, despite later recanting the denial in his supplemental responses to Interrogatories 15 and 18.

concentrating solely on the breach of contract cause of action for which the Plaintiff had already filed the SJ Motion.

During the depositions in Columbia, Dennis repeatedly testified that, during the contract with the county, he regularly received funds that were earmarked to pay rent to his landlord, as the County was required to reimburse him for his rent under the terms of the contract.<sup>6</sup> Accordingly, the Plaintiff determined that the conversion cause of action was once again viable. Even then, however, very little of the time spent by Plaintiff's counsel in this matter involved the conversion cause of action. Significantly, Dennis asserted in his deposition, for the first time in this case, that there was "no question" he owed the Plaintiff at least \$15,000.00,<sup>7</sup> and that the Plaintiff was entitled to charge the late fees set forth in Section 8.3 of the written Lease.<sup>8</sup> Still, no payment of the undisputed amounts materialized.

In August of 2015, the Plaintiff's counsel contacted Jake Moore to remind him that the case required mediation and requested names of mediators and dates of availability. At the same time, the matter was referred to the Master-in-Equity and the Plaintiff paid the referral fee. Dennis' counsel responded to the August letter nearly two months later in October of 2015, and asked that Plaintiff's counsel coordinate with his staff to schedule the mediation. Plaintiff's counsel secured Curtis Coltrane as mediator and the case was scheduled for a mediation conference to be held on November 19, 2015. In conjunction with the mediation, it was necessary for Plaintiff's counsel to prepare a consent order allowing the parties to go beyond the deadline for mediation, which was also November 19. Jake Moore would not sign the draft consent order, so the Master-in-Equity ultimately executed the draft as a Court order, which was dated November 16. Plaintiff's counsel prepared for the mediation by meeting with his client, reviewing the file and assembling documents and a pre-mediation summary for Coltrane, at Coltrane's request. The mediation took place as scheduled, but was not successful. Still, no payment of the undisputed amounts materialized. Accordingly, the Plaintiff had no choice but to push the case to trial.

---

<sup>6</sup>See Transcript of Dan Dennis Deposition, 40:18-22; 41:5-7; 51:23-25 - 52:1-8; 53:14-18.

<sup>7</sup>See Dennis Transcript, 97:23-25; 99:1-6.

<sup>8</sup>See Dennis Transcript, 20:2-6.

The Plaintiff subsequently sought and secured a trial date of January 25, 2016 and served notice of this trial date to Jake Moore on or about December 2, 2015. A week or so before the scheduled trial date, Plaintiff's counsel prepared to try his case. Again, up to and including the date of trial, at no time did Dennis remit to the Plaintiff the undisputed \$15,000.00 and accrued late fees, which had been due and owing for five years. Subsequently, the case was tried on the scheduled date. During cross-examination of Plaintiff's counsel, Dennis' counsel complained that the Plaintiff's attorney's fees and costs were inordinately high, especially given that, as he represented to the Court, Dennis had only been charged \$1,000.00 for the previous three years of litigation.<sup>9</sup>

### DISCUSSION

Generally speaking, attorney's fees and costs are not recoverable unless authorized or permitted by statute or contract. *Blumberg v. Nealco*, 310 S.C. 492 (1993). When the contract permits reasonable attorney's fees, the award of such fees is left to the circuit court's discretion. *Id.* at 493. In awarding attorney's fees, the circuit court considers the following factors: (1) nature, extent and difficulty of legal services rendered; (2) time and labor devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) fee customarily charged in the locality for similar services; and (6) beneficial results obtained. *Hardaway Concrete Co. v. Hall Contracting Corp.*, 374 S.C. 216 (Ct.App.2007), *quoting Blumberg*.

In the instant case, it is undisputed that the written Lease provides for the Plaintiff's recovery of attorney's fees and the costs of collection, in the event that the Plaintiff has to pursue the tenant for amounts due under the lease.

#### **A. Nature, Extent and Difficulty of Services Rendered.**

The Plaintiff would submit that, whether the Court considers this a complex case or not, the services rendered to the Plaintiff were made more difficult by circumstances beyond the Plaintiff's control. Whether it was responding to the motion to dismiss, dealing with two separate counsel of record, attempting to get complete answers to discovery, addressing summary judgment in the face of a recanted denial, or just trying to schedule a mediation conference without running past the

---

<sup>9</sup>It is unclear whether this \$1,000.00 was split between Jake Moore and Franklin Smith, Dennis' other counsel of record.

deadline, each and every one of these tasks was made more complicated by the actions of the Defendants.

**B. Time and Labor Devoted to the Case.**

Certainly, the time and labor devoted to the Plaintiff's case was necessarily increased by the actions of the Defendants. The numerous delays alone led to increased costs. And there can be no question that Dennis' original denial of Request for Admissions Number 3 ultimately led to the increase in Plaintiff's attorney's fees in this case. The denial, which was subsequently recanted, was the sole basis upon which Judge Buckner denied summary judgment to the Plaintiff; at that time, the attorney's fees incurred by the Plaintiff were around \$12,000.00. But Defendants' counsel made no attempt to correct the Court's apparent misapprehension of Dennis' position regarding the four month's unpaid rent, and summary judgment was denied, ensuring the litigation would continue and fees would continue to rise.

Moreover, by his own admission, Dennis has known for five years that he owed at least \$15,000.00 in back rent, plus accruing late fees and charges to the Plaintiff. This is simply undisputed. And yet, at no time has Dennis remitted the undisputed amounts to the Plaintiff, instead choosing to delay the ultimate resolution of this case for as long as possible. As with his handling of the summary judgment matter, this was certainly Dennis' right and prerogative; however, once employing this stratagem, he should not be allowed to later complain about the resulting increase in Plaintiff's attorney's fees.

**C. Professional Standing of Counsel.**

Plaintiff's counsel is and has been, without interruption, a member in good standing of the South Carolina and Beaufort County Bars for over sixteen years.

**D. Contingency of Compensation.**

As the Plaintiff's representative testified at trial, the Plaintiff was charged an hourly rate, so this element is not applicable.

**E. Fee Customarily Charged in the Locality for Similar Services.**

As the Plaintiff's representative testified at trial, he charges an hourly fee of \$300.00, a rate not uncommonly charged in southern Beaufort County.

**F. Beneficial Results Obtained.**

Although the Court has apparently decided to dismiss the conversion and UTPA cause of action, it has also ruled that the Lease was breached, the physical damages to the premises were incurred and the late fees and charges should have been paid, for an amount that will likely be in excess of \$40,000.00. It is no coincidence such a result is what the Plaintiff sought by virtue of its SJ Motion a year ago. Had Dennis not denied Request for Admissions Number 3, summary judgment likely would have been granted, this case would have been concluded, and the attorney's fees incurred by the Plaintiff would have been significantly reduced.

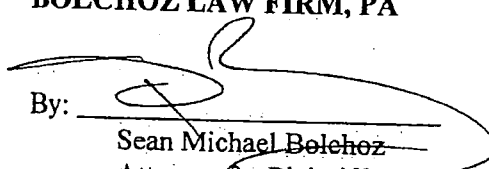
In *Barron Data Systems v. Loter*, 297 S.C. 382 (1989), the Supreme Court upheld an attorney's fee award that actually *exceeded* the Plaintiff's recovery (which is not the case here), approving the trial court's determination that the Plaintiff's counsel there "had to expend considerably more time and effort on the case because the defendants had transformed a simple collection action into complex litigation." *Id.* at 297.

**CONCLUSION**

For the foregoing reasons, the Plaintiff requests that this Court approve its counsel's attorney's fee affidavit dated January 25, 2016 and award Plaintiff the attorney's fees reflected therein.

Respectfully submitted,

**BOLCHOZ LAW FIRM, PA**

By: 

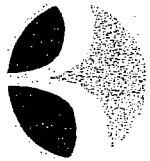
Sean Michael Bolehoz  
Attorney for Plaintiff

6 Buckingham Plantation Drive, Suite B  
Post Office Box 828  
Bluffton, South Carolina 29910  
(843) 836-3033

Bluffton, South Carolina

February 12, 2016

H:\H to M Clients\McKim, Rollin - BL006\post-trial brief.wpd



**BOLCHOZ**  
**LAW FIRM, PA**  
[www.bolchozlaw.com](http://www.bolchozlaw.com)

Sean Michael Bolchoz\*  
Attorney at Law  
\* Certified Circuit Court Mediator

**Mailing:**  
Post Office Box 828  
Bluffton, South Carolina 29910  
**Office:** (843) 836-3033

**Physical:**  
6 Buckingham Plantation Drive, Suite B  
Bluffton, South Carolina 29910  
**Facsimile:** (843) 836-3035

February 22, 2016

**VIA EMAIL ONLY TO MDUKES@BCGOV.NET**

The Honorable Marvin H. Dukes, III  
Beaufort County Master-in-Equity  
Post Office Drawer 1228  
Beaufort, South Carolina 29901

**RE: JRC Properties, LLC v. Dennis Corporation, a South Carolina Corporation, and  
Daniel R. Dennis, III  
Case No. 2013-CP-07-2131**

Dear Judge Dukes:

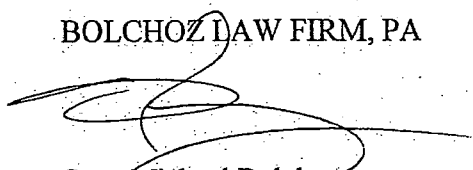
Last Friday, February 19, I received a memorandum of law of the same date from opposing counsel in this case. However, the Court very clearly instructed the parties on the day of the bench trial that they were to deliver their post-trial briefs regarding attorney's fees to the Court *by no later than* twenty (20) days from the date of the hearing, or February 14, 2016. Because that deadline fell on a Sunday, under the SCRCF, the deadline was automatically pushed back to Monday, February 15. Accordingly, the Defendants' memorandum is (more than) a day late and a dollar short.

As they have demonstrated throughout this litigation, the Defendants apparently believe the rules do not apply to them. Please consider this letter my express objection to the Defendants' memorandum of law and the Court's consideration of the same in its ultimate ruling on the matter.

With kind, personal regards, I am

Sincerely,

BOLCHOZ LAW FIRM, PA

  
Sean Michael Bolchoz  
SENDER'S E-MAIL ADDRESS:  
SBOLCHOZ@BOLCHOZLAW.COM

SMB/lfo  
cc: S. Jahue Moore, Esquire ✓  
Rollin McKim (via email only to remartantiques@aol.com)(w/encl.)  
H:\H to M Clients\McKim, Rollin - BL006\Dukes ltr - object to Defendant memo.wpd

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

JRC Properties, LLC,

Plaintiff,

vs.

Dennis Corporation, a South Carolina  
Corporation, and Daniel R. Dennis, III,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. No.: 2012-CP-07-3120

**MEMORANDUM OF LAW  
REGARDING ENTITLEMENT TO  
AWARD OF ATTORNEYS FEES  
AND COSTS**

This matter comes before the Court pursuant to the issue of whether Plaintiff is entitled to an award of attorneys fees. For the reasons set forth below, the Defendants submit that the Plaintiff is not entitled to an award of attorneys fees and costs. In the alternative, the Defendants assert that even if the Court finds that Plaintiff is entitled to an award of attorneys fees and costs, the amount submitted by Plaintiff is excessive.

**I. FACTUAL BACKROUND**

Plaintiff commenced this action against the Defendants for an alleged breach of an office lease dated January 31, 2008. Pursuant to the terms of the lease, Defendants agreed to pay to Plaintiff monthly rent in the amount of \$4,990.67 a month. At the time that the Defendants signed the lease agreement with Plaintiff, the Defendants paid a security deposit of \$4,678.75. Plaintiff's Complaint alleged causes of action for Breach of Contract, Conversion and Unfair Trade Practices. Plaintiff's Complaint sought recovery of damages against Defendants for back rent, late fees and money due and owing for alleged damages to the property.

## **II. DISCUSSION OF LAW**

The general rule in South Carolina is that attorneys fees are not recoverable unless they are authorized by contract or by statute. There is no right under the common law to attorneys fees. *Efco Corp. v. Renaissance on Charleston Harbor, LLC*, 370 S.C. 612, 635 S.E.2d 922 (2006); *Prevatte v. Asbury Arms*, 302 S.C. 413, 396 S.E.2d 642 (Ct.App.1990). Further, under South Carolina Law, attorneys fees and costs may only be awarded to the prevailing party. *Secklinger v. Vessel Excalibur*, 326 S.C. 382, 483 S.E.2d 775 (1997). As a general rule, the amount of attorneys fees to be awarded in a particular case is within the discretion of the circuit court. *Baron Data Sys., Inc. v. Loter*, 297 S.C. 382, 385-86, 377 S.E.2d 296, 298 (1989). The award must be reasonable. *Id.*

There are six factors for the court to consider when determining what constitutes a reasonable award of attorneys fees: (1) the nature, extent, and difficulty of the case; (2) the time necessarily devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) beneficial results obtained; and (6) customary legal fees for similar services. *Jackson v. Speed*, 326 S.C. 289, 486 S.E.2d 750 (1997); *Sexton v. Sexton*, 310 S.C. 501, 427 S.E.2d 665 (1993), appeal after remand, 321 S.C. 487, 469 S.E.2d 608 (Ct. App. 1996).

### **A. PLAINTIFF WAS NOT THE "PREVAILING PARTY" AT TRIAL**

The Plaintiff is not entitled to an award of attorneys fees as it was not the "prevailing party" for an award of attorneys fees under South Carolina Law. A prevailing party has been defined as, "...[t]he one who successfully prosecutes the action or successfully defends against it, prevailing on the main issue, even though not to the extent of the original contention [and] is the one in whose favor the decision or verdict is rendered and judgment entered." *Buza v. Columbia Lumber Co.*, 395 P.2d 511, 514 (1964) A court determines the prevailing party by

evaluating the degree of success obtained. *Commissioner, Immigration and Naturalization, et al. v. Marie Lucie Jean*, 496 U.S. 154, 110 S. Ct. 2316, 110 L.Ed.2d 134 (1990); *Heath v. County of Aiken*, 302 S.C. 178, 394 S.E.2d 709 (1990).

In the above-referenced case, evaluating the degree of success obtained (or not obtained) by Plaintiff, Plaintiff was not the prevailing party in this action. Plaintiff brought three separate causes of action against the Defendants arising out of the January 31, 2008, lease agreement. With respect to the First Cause of Action, the Plaintiff sought recovery against Defendants for approximately \$31,590.92 in rents and late charges (rent for October 2010, November 2010, December 2010 and January 2010, with late charges assessed through November of 2013). Prior to the matter being tried, Defendants conceded that they owed the Plaintiff four months rent, but denied that they owed any of the remaining amounts claimed by Plaintiff.

In addition to the claims asserted in its First Cause of Action, Plaintiff sought to recover damages to walls and carpet "beyond normal wear and tear" in the amount of \$7,421.60 minus one month's security deposit. Plaintiff also asserted a Second Cause of Action for Conversion and a Third Cause of Action for Unfair Trade Practices, seeking an award of treble damages and attorneys fees.

At trial, the Court awarded Plaintiff four months rent minus the Defendants' one month's security deposit previously paid to the Plaintiff. The Court rejected the Plaintiff's claims that it was entitled to an award of damages to the property in the amount of \$7,421.60, informing the parties that Plaintiff had not established any amount of recovery over a potential recovery of \$1,100.00. Finally, the Court found for the Defendants with respect to the Plaintiff's Second and Third Causes of Action.

Evaluating the degree of success obtained by the Plaintiff, it is patently obvious that the Plaintiff was not the prevailing party for purposes of its suit against Defendants. Therefore the Plaintiff is not the "prevailing" party under South Carolina Law for purposes of an award of attorneys fees and costs in this action and is not entitled to an award of attorneys fees and costs.

**B. THE AMOUNT OF ATTORNEYS FEES CLAIMED BY PLAINTIFF IS EXCESSIVE**

Even if the Plaintiff is entitled to an award of attorneys fees and costs as the "prevailing party" (which the Defendants assert it is most definitely not), applying the applicable factors for the Court to consider in awarding attorneys fees and costs, the Plaintiff has failed to establish its entitlement to approximately \$32,000.00 in attorneys fees based on a professional rate of \$300.00 an hour under the relevant factors set forth under South Carolina Law.

**1. Nature, Extent, and Difficulty of Services Required**

This case arose out of an alleged breach of a lease agreement. It was not a complex case and was never designated as one. The amount of written discovery engaged in by the parties was not unusual for litigated matters. There were only two depositions taken in this case - the depositions of Defendant Dan Dennis as a fact witness, and also as a Rule 30(b)(6) designee of the Dennis Corporation. These depositions were taken on the same day in Columbia, South Carolina.

The case was tried in less than one day with very few witnesses being called to testify. The issues and causes of action in this case were not extraordinary difficult or novel. While this case contained a number of contested issues, it did not contain contested issues beyond the realm of the expected. The nature, extent and difficulty of this case and the services required do not justify an award of approximately \$32,000.00 in past and future attorneys fees in this case.

## **2. Time and Labor Devoted to Case**

In support of its claim for attorney's fees, the Plaintiff submitted an affidavit to the Court. Pursuant to the affidavit, Plaintiff claims \$29,735.00 in "attorneys fees incurred," and an additional \$2100.00 in "estimated future fees." The affidavit contains no breakdown showing work actually done by Plaintiff's counsel. No actual bills were attached to the affidavit. No evidence was presented that this amount was either charged to Plaintiff or paid by Plaintiff to its attorney. Further, there is no hourly breakdown of the rate used to calculate the \$29,735.00 figure. Using the \$300.00 an hour rate claimed for future damages, this figure would constitute approximately 300 hours of work on this case. It is impossible to tell from the affidavit what counsel for Plaintiff did for over 300 hours. The recitation of work performed contained in the Plaintiff's Memorandum of Law does not justify 300 hours of legal work.

The conclusionary affidavit submitted by Plaintiff's counsel is legally insufficient. *See Griffith v. Griffith*, 332 S.C. 630, 644, 506 S.E.2d 526, 534 (Ct. App. 1998) (noting that conclusory information of time expended and hourly rate charged is insufficient to provide the evidentiary basis necessary to support an award of attorney's fees.) *See also Johnson v. Johnson* 288 S.C. 270, 341 S.E.2d 811 (Ct. App. 1986). It does not provide the Court with any basis to evaluate the actual time spent in this case and to make the necessary factual findings to support an award of attorneys fees. It does not justify such an excessive award of attorneys fees in this case.

This amount is excessive based on the nature of this case. Although the undersigned submits that the Plaintiff is not entitled to any award of attorneys fees, the \$29,735.00 figure is not supported by any evidence before the Court and is patently excessive.

**3. Professional Standing of Counsel and Fee Customarily Charged for Similar Services**

The Plaintiff's counsel alleges that he has been a member of the bar for approximately sixteen (16) years. The undersigned makes note that he has been a member of the South Carolina Bar for over two times that figure and his hourly rate and the rate he is charging his client in this case is below the \$300.00 an hour claimed by the Plaintiff. Further, there is no evidence beyond the assertions and representations of Plaintiff's counsel that \$300.00 an hour is the fee customarily charged in the locality for similar legal services. Plaintiff's counsel has not submitted any other proof in this regard. The only evidence presented as to the reasonableness of this rate came from the Plaintiff's counsel who clearly has an interest in the Court's award of a high hourly rate. Further, the undersigned would point out to the Court that this rate, especially in a case such as this one, far exceeds any hourly rates he is familiar with charged in the State of South Carolina.

**4. Beneficial Results Obtained**

As set forth above, the Defendants contend that the Plaintiff was not the prevailing party. Plaintiff recovered on only one of its three causes of action. Plaintiff's recovery was far less than the amount claimed throughout litigation and at trial. An award of attorneys fees based on those circumstances is not warranted, especially when the amount of attorneys fees claimed will most probably exceed the actual award in this case. Therefore, the results obtained by Plaintiff's counsel on behalf of his client do not justify an award of approximately \$30,000.00 in attorneys fees in this case.

### III. CONCLUSION

For the reasons set forth above, the undersigned submits that Plaintiff is not entitled to an award of attorneys fees. In the event that this Court does determine that the Plaintiff is entitled to an award of attorneys fees, the amount claimed by Plaintiff's counsel is excessive and not supported by the evidence presented before the Court.

MOORE TAYLOR LAW FIRM, P.A.

BY:



S. Jahue Moore  
1700 Sunset Boulevard  
P. O. Box 5709  
West Columbia, SC 29171  
(803) 796-9160

ATTORNEY FOR DEFENDANTS

West Columbia, South Carolina

February 19, 2016

## John Bradley

---

**From:** Dukes, Marvin <mdukes@bcgov.net>  
**Sent:** Thursday, February 25, 2016 11:12 AM  
**To:** Lynn G. Ivey; McLeod, Heather  
**Cc:** John Bradley; 'sbolchoz@bolchozlaw.com'; Diane Corley  
**Subject:** RE: JRC Properties vs. Dennis Corporation Re: Breach of Contract: TO Jake Moore and Sean Bolchoz

Dear Jake and Sean,

I believe that Sean's client is the prevailing party and is entitled to fees, but, like Jake, I would like to see the time records referenced in para 6 of the atty fee aff.

Sean, I can't remember if this is one where there were atty/client confidential info in the records themselves, but, if so, I can just review it in chambers.

If not, perhaps you could put it together and send to me (copy to Jake) before I rule.

As always, if the two of you can figure out a happy resolution, let me know.

Best,

Marvin H. Dukes, III  
Master-in-Equity for Beaufort County  
Beaufort County Courthouse  
102 Ribaut Road, Room 212  
Post Office Drawer 1228  
Beaufort, SC 29901  
Office: 843.255.5710  
Fax: 843.255.9505

Neither this office, nor its staff gives legal, financial or other advice. Any information obtained from this office or its staff, regardless of form, should not be taken as legal or financial advice. Persons seeking to purchase properties from foreclosures or other sales should obtain independent advice as to value, sufficiency of title, tax consequences, other liens, and all other matters related to said purchase. Persons involved in litigation should obtain counsel and may not rely on any information obtained from this office as legal advice. Do not rely on this office for legal advice- always obtain independent legal advice.

---

**From:** Lynn G. Ivey [mailto:lynn@mttlaw.com]  
**Sent:** Friday, February 19, 2016 4:20 PM  
**To:** Dukes, Marvin  
**Cc:** John Bradley; 'sbolchoz@bolchozlaw.com'; Diane Corley  
**Subject:** JRC Properties vs. Dennis Corporation Re: Breach of Contract:

Please find attached to this email a cover letter and Memorandum of Law from Jake Moore for the above captioned matter.

This document is respectfully submitted for your consideration as requested.

Should you have any questions or concerns, please have your staff contact our office.

Thank you,

*Lynn G. Ivey*



**BOLCHOZ**  
**LAW FIRM, PA**  
[www.bolchozlaw.com](http://www.bolchozlaw.com)

Sean Michael Bolchoz\*  
Attorney at Law  
\* Certified Circuit Court Mediator

**Mailing:**  
Post Office Box 828  
Bluffton, South Carolina 29910  
**Office:** (843) 836-3033

**Physical:**  
6 Buckingham Plantation Drive, Suite B  
Bluffton, South Carolina 29910  
**Facsimile:** (843) 836-3035

February 29, 2016

**VIA HAND DELIVERY**

The Honorable Marvin H. Dukes, III  
Beaufort County Master-in-Equity  
Post Office Drawer 1228  
Beaufort, South Carolina 29901

**RE: JRC Properties, LLC v. Dennis Corporation, a South Carolina Corporation, and  
Daniel R. Dennis, III  
Case No. 2013-CP-07-2131**

Dear Judge Dukes:

Per the Court's instructions, please find accompanying this letter Bolchoz Law Firm, PA's invoices to the Plaintiff, JRC Properties, LLC, for services rendered in this case.

Please note that the "Total Balance Due Now" at the bottom of each invoice, including the first one from June of 2013, indicates a balance of \$10,100.00; because of the accounting software my firm uses, *every* invoice generated (even older ones) for a client reflects the current balance due from that client. However, I am also enclosing two reports for clarification purposes: the first report shows the dollar figure for each monthly invoice delivered to the client; the second report shows each payment made on the outstanding invoices by the client.

As indicated in our previous email exchange, given that these invoices contain information protected by attorney-client privilege, I am not providing them to opposing counsel, but only to the Court for *in camera* review.

With kind, personal regards, I am

Sincerely,

BOLCHOZ LAW FIRM, PA

Sean Michael Bolchoz  
SENDER'S E-MAIL ADDRESS:  
SBOLCHOZ@BOLCHOZLAW.COM

SMB/lfo  
Enclosures

cc: S. Jahue Moore, Esquire  
Rollin McKim (via email only to remartantiques@aol.com)  
H:\H to M Clients\McKim, Rollin - BL006\Dukes ltr - invoices - JRC Properties.wpd

DC000497

**From:** Dukes, Marvin  
**To:** Sean Bolchoz; McLeod, Heather  
**Cc:** "Jake Moore"; Admin  
**Subject:** RE: JRC Properties vs. Dennis Corporation Re: Breach of Contract: TO Jake Moore and Sean Bolchoz  
**Date:** Tuesday, March 1, 2016 11:46:18 AM  
**Attachments:** image001.png

---

Dear Counsel,

I have received and reviewed the timesheets in camera.

I find that the attorneys fee request of the Plaintiff is reasonable, called for in the lease and complies with the factors.

I would ask Mr. Bolchoz to please draft the Order as such.

Heather, please arrange to return the original invoices to Mr. Bolchoz's office.

Best to all,

Marvin H. Dukes, III  
Master-in-Equity for Beaufort County  
Beaufort County Courthouse  
102 Ribaut Road, Room 212  
Post Office Drawer 1228  
Beaufort, SC 29901  
Office: 843.255.5710  
Fax: 843.255.9505

Neither this office, nor its staff gives legal, financial or other advice. Any information obtained from this office or it's staff, regardless of form, should not be taken as legal or financial advice. Persons seeking to purchase properties from foreclosures or other sales should obtain independent advice as to value, sufficiency of title, tax consequences, other liens, and all other matters related to said purchase. Persons involved in litigation should obtain counsel and may not rely on any information obtained from this office as legal advice. Do not rely on this office for legal advice- always obtain independent legal advice.

---

**From:** Sean Bolchoz [mailto:sbolchoz@bolchozlaw.com]  
**Sent:** Thursday, February 25, 2016 3:43 PM  
**To:** Dukes, Marvin; McLeod, Heather  
**Cc:** 'Jake Moore'; 'Laura F. Obi'  
**Subject:** RE: JRC Properties vs. Dennis Corporation Re: Breach of Contract: TO Jake Moore and Sean Bolchoz

Dear Judge Dukes:

I use daily timesheets, which contain the names of several clients unrelated to this matter, and descriptions of the tasks performed that day (and the time spent, in increments of six minutes) for each client's file. I use these to generate monthly invoices for my clients, including invoices for the Plaintiff in this matter, JRC Properties.

So, I am in the process of assembling all of my invoices for JRC Properties in this matter to send to you. However, these invoices have attorney-client privileged and/or confidential information in them, so I prefer the Court review the invoices *in camera*, as proposed

below. I will plan to have them delivered by courier tomorrow or at the beginning of next week.

Thank you,

 **BOLCHOZ**  
**LAW FIRM, PA**

Sean Michael Bolchoz  
[sbolchoz@bolchozlaw.com](mailto:sbolchoz@bolchozlaw.com)  
Post Office Box 828 | 6 Buckingham Plantation Drive, Suite B  
Bluffton, South Carolina 29910  
Tel 843-836-3033 | Fax 843-836-3035

NOTE: The information contained in this message is confidential and may be protected by the attorney-client privilege and/or the work product doctrine. If you have received this electronic message in error, please reply to the sender and destroy this message.

---

**From:** Dukes, Marvin [<mailto:mdukes@bcgov.net>]  
**Sent:** Thursday, February 25, 2016 11:12 AM  
**To:** Lynn G. Ivey <[lynn@mttlaw.com](mailto:lynn@mttlaw.com)>; McLeod, Heather <[hmcLeod@bcgov.net](mailto:hmcLeod@bcgov.net)>  
**Cc:** John Bradley <[john@mttlaw.com](mailto:john@mttlaw.com)>; 'sbolchoz@bolchozlaw.com' <[sbolchoz@bolchozlaw.com](mailto:sbolchoz@bolchozlaw.com)>; Diane Corley <[diane@mttlaw.com](mailto:diane@mttlaw.com)>  
**Subject:** RE: JRC Properties vs. Dennis Corporation Re: Breach of Contract: TO Jake Moore and Sean Bolchoz

Dear Jake and Sean,

I believe that Sean's client is the prevailing party and is entitled to fees, but, like Jake, I would like to see the time records referenced in para 6 of the atty fee aff.

Sean, I can't remember if this is one where there were atty/client confidential info in the records themselves, but, if so, I can just review it in chambers.

If not, perhaps you could put it together and send to me (copy to Jake) before I rule.

As always, if the two of you can figure out a happy resolution, let me know.

Best,

Marvin H. Dukes, III  
Master-in-Equity for Beaufort County  
Beaufort County Courthouse  
102 Ribaut Road, Room 212  
Post Office Drawer 1228  
Beaufort, SC 29901  
Office: 843.255.5710  
Fax: 843.255.9505

Neither this office, nor its staff gives legal, financial or other advice. Any information obtained from this office or it's staff, regardless of form, should not be taken as legal or financial advice. Persons seeking to purchase properties from foreclosures or other sales should obtain independent advice as to value, sufficiency of title, tax consequences, other liens, and all other matters related to said purchase. Persons involved in litigation should obtain counsel and may not rely on any information obtained from this office as legal advice. Do not rely on this office for legal advice- always obtain independent legal advice.

**From:** Lynn G. Ivey [<mailto:lynn@mttlaw.com>]  
**Sent:** Friday, February 19, 2016 4:20 PM  
**To:** Dukes, Marvin  
**Cc:** John Bradley; 'sbolchoz@bolchozlaw.com'; Diane Corley  
**Subject:** JRC Properties vs. Dennis Corporation Re: Breach of Contract:

Please find attached to this email a cover letter and Memorandum of Law from Jake Moore for the above captioned matter.

This document is respectfully submitted for your consideration as requested.

Should you have any questions or concerns, please have your staff contact our office.

Thank you,

*Lynn G. Ivey*

Moore Taylor Law Firm, P.A.  
1700 Sunset Blvd.  
Post Office Box 5709  
West Columbia, SC 29171  
Phone: 803-796-9160  
Fax: 803-791-8410

The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and/or work product and is therefore privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
In the Court of Common Pleas

Marvin H. Dukes, Presiding Judge

Case No. 2013-CP-07-02131

**RECEIVED**  
APR 12 2016  
SC Court of Appeals

JRC Properties, LLC..... Respondent,

v.

Dennis Corporation, a South Carolina Corporation  
and Daniel R. Dennis, III ..... Appellants.

**NOTICE OF APPEAL**

Dennis Corporation, a South Carolina Corporation and Daniel R. Dennis, III, appeal the Order of the Honorable Marvin H. Dukes, III, Beaufort County Master in Equity and Special Circuit Court Judge dated March 23, 2016. A copy of which is attached hereto and incorporated here. Appellants received written notice of entry of this Order on March 28, 2016.

  
\_\_\_\_\_  
S. Jahue Moore, Esquire  
John C. Bradley, Jr., Esquire  
MOORE, TAYLOR & THOMAS, P.A.  
P.O. Box 5709  
West Columbia, South Carolina 29171  
(803) 796-9160  
ATTORNEYS FOR THE APPELLANTS

Other Counsel of Record:

Sean Michael Bolchoz, Esquire  
Post Office Box 828  
Bluffton, South Carolina 29910  
(843) 836-3033  
ATTORNEYS FOR THE RESPONDENT

RECEIVED

APR 12 2016

FORM 4

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

SC Court of Appeals

CASE NO. 2013-CP-07-2131

|                                          |                                                                                                                                                      |
|------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| JRC PROPERTIES, LLC,<br><br>PLAINTIFF(S) | DENNIS CORPORATION, a South Carolina<br>Corporation, and DANIEL R. DENNIS, III,<br><br>DEFENDANT(S)                                                  |
| Submitted by: Sean Michael Bolchoz       | Attorney for: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant<br><input type="checkbox"/> Self-Represented Litigant |

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED. (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other: \_\_\_\_\_
- ☐ **ACTION STRICKEN. (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: \_\_\_\_\_
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: \_\_\_\_\_

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: \_\_\_\_\_

| INFORMATION FOR THE JUDGMENT INDEX                                                                                                                                                                           |                                                 |                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|----------------------------------------------------------|
| Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below. |                                                 |                                                          |
| Judgment in Favor of<br>(List name(s) below)                                                                                                                                                                 | Judgment Against<br>(List name(s) below)        | Judgment Amount To Be Enrolled<br>(List amount(s) below) |
| JRC PROPERTIES, LLC                                                                                                                                                                                          | DENNIS CORPORATION AND<br>DANIEL R. DENNIS, III | \$69,024.50                                              |
|                                                                                                                                                                                                              |                                                 | \$                                                       |
|                                                                                                                                                                                                              |                                                 | \$                                                       |
| If applicable, describe the property, including tax map information and address, referenced in the order:                                                                                                    |                                                 |                                                          |

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Juc

3069  
DC000503

Date

3/23/16

This judgment was entered on the 23 day of March, 2016 and a copy mailed first class or placed in the appropriate attorney's box on this 25 day of March, 2016 to attorneys of record or to parties (when appearing *pro se*) as follows:

5. J. Alford

**ATTORNEY(S) FOR THE DEFENDANT(S)**

**COURT REPORTER:**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

STATE OF SOUTH CAROLINA )

COUNTY OF BEAUFORT )

JRC PROPERTIES, LLC, )

Plaintiff, )

v. )

DENNIS CORPORATION, a South )  
Carolina Corporation, and DANIEL R. )  
DENNIS, III, )

Defendants. )

IN THE COURT OF COMMON PLEAS  
CASE NO. 2013-CP-07-02131

**FINAL ORDER AND JUDGMENT**

**RECEIVED**

APR 12 2016

SC Court of Appeals

2016 MAR 23 PM 3:26

THIS MATTER comes before this Court by virtue of an Order of Reference dated September 22, 2015, and pursuant to the pleadings of the Plaintiff, JRC Properties, LLC ("JRC"), which assert causes of action against the Defendants for breach of contract (a commercial lease), conversion and violation of the S.C. Unfair Trade Practices Act (UTPA);

A BENCH TRIAL in this matter was held before this Court on January 25, 2016; present at the trial were Plaintiff's counsel, Sean Bolchoz, and Rollin McKim, as representative of and for the Plaintiff; and Defendants' counsel, S. Jahue Moore, Defendant Dan Dennis ("Dennis") and two witnesses;

HAVING TAKEN witness testimony, and having reviewed the evidence presented and having heard the arguments of counsel, I find and conclude as follows:

**FINDINGS OF FACT AND CONCLUSION OF LAW**

1. The Plaintiff and Defendant Dennis Corporation entered into a written commercial lease ("Lease") of an office space unit located at 6 Buckingham Plantation Drive in Bluffton, South Carolina; the written lease was executed by the parties in 2008. The Lease is an enforceable contract between the Plaintiff and Defendant Dennis Corporation.
2. The Lease term was for five (5) years, but Defendant Dennis Corporation exercised the right to early termination of the Lease under Section 2.2 by

providing written notice of early termination via letter from Defendant Dennis dated January 21, 2011; the termination was effective January 31, 2011.

3. At the time of the Defendants' early termination under Section 2.2, the rent was in arrears for four months (October, November, December of 2010 and January of 2011). McKim testified that this rent was never paid, despite efforts by the Plaintiff to recover these amounts from the Defendants. At trial, Defendant Dennis confirmed that this rent has never been paid.
4. Under Section 8.3 of the Lease, if any installment of rent goes unpaid for fifteen days, the Plaintiff is entitled to assess a late charge of five (5%) percent of the balance due. Also under Section 8.3 of the Lease, the Plaintiff is entitled to assess late charges of 1.5 percent of the balance due for each thirty day period the balance goes unpaid.
5. The monthly rental amount at the time Defendant Dennis Corporation exercised the early termination was Four Thousand Nine Hundred Ninety and 67/100 (\$4,990.67) Dollars. Multiplying this figure by four months equals Nineteen Thousand Nine Hundred Sixty-Two and 68/100 (\$19,962.68) Dollars. The five percent charge on the unpaid balance for four months equals Two Thousand Four Hundred Ninety-Five and 33/100 (\$2,495.33) Dollars. The 1.5 percent charge on the unpaid balance for the first four months of the arrearage equals Two Hundred Ninety-Nine and 44/100 (\$299.44) Dollars. Added together, this equals a total of Twenty-Two Thousand Seven Hundred Fifty-Seven and 45/100 (\$22,757.45) Dollars ("Base Rental Claim").
6. The Plaintiff also claimed physical property damage stemming from the Defendants' use of the unit, in the amount of Seven Thousand Four Hundred Twenty-One and 66/100 (\$7,421.66) Dollars, reduced by a credit of Four Thousand Six Hundred Seventy-Eight and 75/100 (\$4,678.75) Dollars,<sup>1</sup> for total property damage in the amount of Two Thousand Seven Hundred Forty-Two and 91/100 (\$2,742.91) Dollars. Although neither of the Defendants objected at the time to the application of the security deposit to Plaintiff's claimed property

damage, I do not feel that the Plaintiff carried its burden of proof as to the entirety of the physical property damage claim; instead, I feel the Plaintiff demonstrated a total property damage claim in the amount of One Thousand Three Hundred Fifty and No/100 (\$1,350.00) Dollars ("Property Damage").

7. Adding the Property Damage to the Base Rental Claim results in a figure of Twenty-Four Thousand One Hundred Seven and 45/100 (\$24,107.45) Dollars. Given that Defendant Dennis Corporation is entitled to a credit in the amount of the security deposit paid at the commencement of the Lease, this figure should be reduced by Four Thousand Six Hundred Seventy-Eight and 75/100 (\$4,678.75) Dollars, to Nineteen Thousand Four Hundred Twenty-Eight and 70/100 (\$19,428.70) Dollars ("Principal Claim").
  1. Multiplying the Principal Claim by the 1.5 percent charge equals Two Hundred Ninety-One and 43/100 (\$291.43) Dollars; multiplying that figure by 60 months (February of 2011 to February of 2016) equals Seventeen Thousand Four Hundred Eighty-Five and 80/100 (\$17,485.80) Dollars; this figure should be added to the Principal Claim, for a principal judgment amount of Thirty-Six Thousand Nine Hundred Fourteen and 50/100 (\$36,914.50) Dollars.
  2. Under Section 8.3 of the Lease, the Plaintiff is entitled to recover its reasonable actual attorney's fees and costs of collection incurred in collecting the unpaid rent and other charges from Defendant Dennis Corporation. The Plaintiff submitted an attorney's fee affidavit reflecting attorney's fees and costs incurred in this case in the amount of Thirty-Two Thousand One Hundred Ten and No/100 (\$32,110.00) Dollars. At trial, Defendants' counsel cross-examined Plaintiff's counsel extensively regarding the basis for the fees. Furthermore, Plaintiff's counsel, pursuant to this Court's instructions, delivered to this Court, for *in camera* review, invoices spanning more than two years for legal services provided to the Plaintiff. Upon reviewing all of the foregoing, and taking into account the standards applied in *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 427 S.E.2d 659 (1993), namely: i) the nature, extent and difficulty of the legal services rendered;

---

<sup>1</sup>This represents Defendant Dennis Corporation's security deposit, paid at the commencement of the Lease.

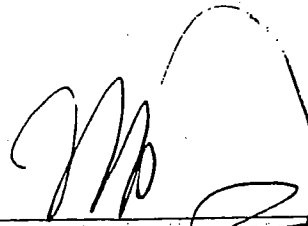
ii) the time and labor necessarily devoted to the case; iii) the professional standing of counsel; iv) the contingency of compensation; v) the fee customarily charged in the locality for similar legal services; and vi) the beneficial results obtained, I find that the Plaintiff's attorney's fees and costs are reasonable, and award same to the Plaintiff.

3. In addition to its claim for breach of the Lease, the Plaintiff also asserted causes of action against both Defendants for conversion and violation of the UTPA. At the close of the Plaintiff's case-in-chief, the Plaintiff moved to dismiss the UTPA claim and I granted the motion; I do not believe the Plaintiff carried the burden of proof at trial with regard to this claim. At the close of all the evidence, the Defendants moved to dismiss the cause of action for conversion, and I granted this motion, as well, as I do not believe that the Plaintiff carried its burden of proof with regard to this cause of action, either.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

- A. The Plaintiff shall have judgment against Defendant Dennis Corporation in the amount of Thirty-Six Thousand Nine Hundred Fourteen and 50/100 (\$36,914.50) Dollars; the Plaintiff is also awarded attorney's fees and costs in the amount of Thirty-Two Thousand One Hundred Ten and No/100 (\$32,110.00) Dollars, for a total judgment against Dennis Corporation in the amount of Sixty-Nine Thousand Twenty-Four and 50/100 (\$69,024.50) Dollars.
- B. In light of the provision in Section 8.3 of the parties' Lease regarding attorney's fees and costs of collection, the Plaintiff shall have the right to petition this Court in the future for any additional attorney's fees and costs of collection incurred for its efforts in collecting the aforesaid judgment against Defendant Dennis Corporation.

**IT IS SO ORDERED.**



The Honorable Marvin H. Dukes, III/  
Beaufort County Master-in-Equity and  
Special Circuit Court Judge

Beaufort, South Carolina

3/23, 2016

H:\H to M Clients\McKim, Rollin - BL006\final order and judgment.wpd

**STATE OF SOUTH CAROLINA**

**COUNTY OF BEAUFORT**

**OFFICE LEASE**

THIS LEASE AGREEMENT, dated this \_\_\_\_ day of January, 2008, made by **JRC PROPERTIES, LLC**, 20 Towne Square, PMB 390, Bluffton, SC 29910 ("Landlord") and **DENNIS CORPORATION**, whose address is 5000 Thurmond Mall, Suite 114, Columbia, South Carolina 29201 ("Tenant").

**WITNESSETH: THAT,**

Landlord, for and in consideration of the rents, covenants, agreements, and stipulations herein contained, to be paid, kept, and performed by Tenant, has leased and rented, and by these presents leases and rents unto Tenant, and Tenant hereby leases upon the terms and conditions herein contained, the Premises described in Paragraph 1.1 (b) below. So long as Tenant shall observe and perform the covenants and agreements binding on it hereunder and subject to the terms and provisions hereof, Tenant shall at all times during the Lease Term peacefully and quietly have and enjoy possession of the Premises.

**I**

**PREMISES AND OTHER DEFINITIONS**

Unless the context otherwise specifies or requires, the following terms shall have the meanings herein specified:

1.1 Premises. Terms used in defining Premises are:

(a) The term "Building" shall mean the office building known as Building #6 Buckingham Plantation Drive, Bluffton, South Carolina ("Building").

(b) The term "Premises" shall mean (i) the exclusive use of the Building which contains 3743 square feet; and (ii) the non-exclusive use of the existing parking areas located on the Land.

(c) Land. The term "Land" shall mean Building #6 Buckingham Plantation Drive, Bluffton, South Carolina together with its associated parking.

**II**

**TERM, ASSIGNMENT, AND SUBLETTING**

2.1 Term. On the Commencement Date, Tenant shall take and accept the Premises from Landlord in their then condition and as suited for the use intended by Tenant, to have and to hold the same for a period of five (5) years (the "Initial Lease Term"). The Initial Lease Term shall

N:\directory\joanne\real-estate\leases\mckim

commence on March 1, 2008 (the "Commencement Date") and shall end at 6:00 P.M. E.S.T. on February 28, 2013 (the "Expiration Date").

2.2 Tenant's Right of Early Termination. In the event that Tenant's contract with Beaufort County is terminated at any time and for any reason by the county, Tenant shall upon verification of the termination have the option to immediately terminate this Lease upon provision of written notice to Landlord of its election to do so.

2.3 Removal of Tenant's Personal Property. Before the termination of this Lease, Tenant shall remove from the Premises all its personal property which this Lease allows Tenant to remove and peaceably surrender such Premises and the keys thereto to Landlord in the same condition as at the beginning of this Lease, only natural wear and tear excepted. Such property of Tenant as it fails to remove either from the Premises or the Building after the termination of this Lease shall be considered as abandoned by Tenant and may be disposed of by Landlord at Tenant's expense in any manner whatsoever without accounting to Tenant for same or being liable in any way to Tenant for such disposition.

2.4 Holding Over. In no event shall there be any renewal of this Lease by operation of law, and if Tenant remains in possession of the Premises after the termination of this Lease and without a new lease executed by Landlord and Tenant, Tenant shall be deemed to be occupying the Premises as a tenant at sufferance at a Base Rental equal to one hundred percent (100%) of the then existing market rental rate and additional rental as provided for under this Lease, and otherwise subject to all the covenants and provisions of this Lease insofar as the same are applicable to a month-to-month tenancy.

2.5 Assignment and Subletting: The Tenant shall not, without the Landlord's prior written consent: (i) mortgage, pledge, encumber, or otherwise transfer (whether voluntarily, by operation of law, or otherwise) this Lease or any interest hereunder; (ii) allow any lien to attach to Tenant's interest in the Premises or this Lease; (iii) permit the use or occupancy of the Premises or any part thereof by any one other than Tenant; (iv) assign or convey this Lease or any interest herein; or (v) sublet the Premises or any part thereof; and any attempt to consummate any of the foregoing without Landlord's consent shall be void. Landlord may deny or withhold its consent to any of the foregoing in Landlord's sole discretion, for any reason or for no reason.

2.6 Extension Options. Tenant shall have three (3) options to extend the Term of this Lease for an additional one (1) year period (each such 1-year period hereafter referred to as a "Renewal Term"). In order to exercise such option, Tenant must provide written notice to Landlord not less than ninety (90) days prior to the end of the Initial Lease Term or Extension Term, as applicable, of its election to extend the term of this Lease.

## RENT, RENT ADJUSTMENT, AND DEPOSITS

3.1 Payment of Base Rental. Tenant shall pay to Landlord as annual rent during the Initial Lease Term and any Renewal Term the Base Rental (as defined in Paragraph 3.2 hereof). The Base Rental shall be paid in equal monthly installments, in advance, on the first day of every calendar month during the Lease Term. If the Commencement Date occurs on other than the first day of a calendar month, Tenant shall pay, in addition to Base Rental, a prorated portion of the Base Rental for the first Lease month based upon the number of days remaining in said first partial calendar month.

### 3.2 Amount of Base Rental.

a. During the first year of the term of the Lease, the Base Rental will be \$15.00 per square foot (3743 sq. ft.) of the Premises per month. For the first year of the term of the Lease, such monthly rental shall be \$4,678.75.

b. A security deposit of \$4,678.75 will be paid by Tenant prior to occupancy. The security deposit will be refundable 30 days from the expiration of this lease unless any charges as outlined in 4.1 have accrued.

c. The Base Rental will increase by \$0.50 per square foot for each year of the Initial Lease Term or any Renewal Term, with the first rental increase occurring on the first day of the first month following the one-year anniversary of the Commencement Date.

d. All monthly rent payments will be made in advance on the first day of the month for which it is payable.

3.3 Payments. Tenant shall pay to Landlord all Base Rental, any additional rent, and all other charges due and owing by Tenant under this Lease without deduction or set off, in legal tender, and at Landlord's address or as otherwise directed from time to time by Landlord's notice. Tenant's obligation to pay the Base Rental, any additional rent, and all other charges due and owing by Tenant under this Lease shall survive the expiration or earlier termination of this Lease unless termination is through the faults or acts of the Landlord.

## IV

## PREPARATION, MAINTENANCE, AND REPAIR OF PREMISES

4.1 Maintenance and Repairs by Tenant. Tenant shall at its own expense keep the interior of the Premises in good repair and tenantable condition, including all interior repairs and maintenance, and indemnify Landlord against any loss, damage, or expense arising by reason of any failure of Tenant so to keep the Premises in good repair and tenantable condition or due to any act or neglect of Tenant, its agents, employees, contractors, invitees, licensees, tenants, or assignees. If Tenant fails, after written notice from Landlord and 15 days to cure, to perform, or cause to be performed, any such necessary maintenance and repairs, then at the option of

Landlord, in its sole discretion, any such maintenance or repair may be performed or caused to be performed by Landlord and the cost and expense thereof charged to Tenant, and Tenant shall pay the amount thereof to Landlord on demand as additional rent. Occupancy by Tenant shall be deemed acceptance of the Premises. For purposes of this paragraph 4.1, maintenance and repair of the windows and doors shall also be the responsibility of the Tenant.

4.2 Maintenance and Repairs by Landlord. Landlord, at its cost and expense and without right of reimbursement from Tenant, shall be responsible for all necessary maintenance and repairs to (i) all portions of the Building other than the interior of the Premises, including without limitation the roof, foundation, exterior walls, structure, and building exterior, and (ii) all systems within the Building, including without limitation, plumbing, electrical, heating, ventilating, and air conditioning. Landlord shall also provide pest control for the Building and Land.

4.3 Alterations by Tenant. Tenant shall make no alterations or additions of any kind in or to the Premises without first obtaining Landlord's written consent. Tenant shall discharge of record by bond or otherwise, within ten (10) days following the filing thereof, any mechanic's or similar lien or encumbrance filed against the Premises or the Building for work or materials claimed to have been furnished to or for the benefit of Tenant and/or the Premises.

4.4 Hazardous Materials. Tenant will not cause any hazardous material to be placed on the Land.

4.5 Damage and Destruction. If the Premises are rendered partially or wholly unfit for occupancy by fire, the elements, act of God or other casualty (fire, the elements, acts of God or other casualties hereinafter referred to as the "Casualty"), and if such damage cannot, in Landlord's reasonable opinion, be materially restored within sixty (60) days of the date of such Casualty, then Landlord may, at its sole option, terminate this Lease as of such date. For purposes hereof, the Premises shall be deemed "materially restored" if they are in such condition as would not prevent or materially interfere with Tenant's use of the Premises for the purpose for which it was then being used. If this Lease is not terminated pursuant to the above provisions of this Paragraph 4.5, then Landlord shall proceed with all due diligence, upon receipt of all insurance proceeds due to Landlord, to repair and restore the Premises. In any case the Landlord must have the Premises restored to its original condition within 120 days of said damage or destruction or Tenant will have the right to terminate this lease at its sole option without liability. In no event shall Landlord be required to rebuild, repair, or replace any part of the partitions, fixtures, additions, or other property and improvements which may have been placed in or about the Premises by Tenant. If this Lease shall not be terminated by Landlord pursuant to this Paragraph 4.5 and if the Premises are unfit for occupancy in whole or in part following such Casualty, the rent payable during the period in which the Premises are unfit for occupancy shall abate in proportion to the percentage of the rentable area of the Premises rendered unusable by such Casualty as agreed upon between Tenant and Landlord; provided, however, that no such abatement shall be made in the event such Casualty shall have been caused through the gross negligence or willful misconduct of Tenant, its agents, employees, contractors, invitees, licensees, tenants, or assignees. If any such Casualty occurs, Landlord shall not be liable to Tenant for inconvenience, annoyance, loss of profits, expenses, or any other type of injury or

damage resulting from the repair of any such Casualty, or from any repair, modification, arranging, or rearranging of any portion of the Premises or any part or all of the Building or for termination of this Lease as provided in this Paragraph 4.5. Notwithstanding any language contained in this Lease to the contrary, Landlord's obligations to repair and restore such damage shall be limited to the amount of insurance proceeds made available to Landlord for such repair and restoration (after any right of any mortgagee to said proceeds); provided, that if, in Landlord's reasonable judgement, the amount of such insurance proceeds is not sufficient to materially restore the Premises and the Building (except for any improvements, fixtures, finishes, or personalty that may have been placed in or about the Premises by Tenant), Landlord shall have the right to terminate this Lease as of the date of such Casualty and the Lease Term shall end as of such date. In the event of any Casualty during the final year of the Lease Term of this Lease, Landlord, at Landlord's sole option, shall have the right to terminate this Lease as of the date of such Casualty and the Lease Term shall end as of such date. Landlord is required to maintain adequate insurance to restore damaged Premises to its condition at the time of the casualty. In the event the Premises are not returned to its condition at the time of the Casualty, then Tenant has the option to terminate this Lease without liability.

4.5 Eminent Domain. If all of the Premises should be taken for any public or quasi-public use under governmental law, ordinance, or regulation, or by right of eminent domain, or by private purchase in lieu thereof, and the taking would prevent or materially interfere with the use of the Premises for the purpose for which it is then being used, this Lease shall, at either Landlord's or Tenant's option, terminate effective as of the date of such actual physical taking. Tenant would share in any condemnation award to the extent that said award included Tenant Improvement in addition to the Base Building and other items of value provided or installed by Tenant. If part of the Premises is taken for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or by private purchase in lieu thereof, then Landlord or Tenant shall have the right to terminate this Lease effective as of the date of such actual physical taking. In the event that this Lease is not terminated as provided above in this Paragraph 4.6, the rent payable hereunder during the unexpired portion of this Lease shall be reduced in proportion to the percentage of the rentable area of the Premises rendered unusable by such taking and Landlord shall undertake materially to restore the Premises. Said rent shall be adjusted, however, to reflect a decrease in the usability and the quality of the Premises, including but not limited to such things as less desirable access, parking, visibility, signage, etc. Landlord or Tenant, as the case may be, shall exercise its right to terminate this Lease provided above in this Paragraph 4.6 by written notice to the other party within thirty (30) days of the date of such actual physical taking. Notwithstanding any language contained in this Lease to the contrary, Landlord's obligation to materially restore the Premises shall be limited to the amount of condemnation proceeds made available to the Landlord for such restoration and repair (after any right of any mortgagee to said proceeds); if such proceeds is not sufficient to materially restore the Premises and the Building (except for any improvements, fixtures, finishes, or personalty that may have been placed in or about the Premises by Tenant), Landlord or Tenant shall have the right to terminate this Lease effective as of the date of such actual physical taking. Tenant shall not share in any condemnation award or payment in lieu thereof or in any award for damages resulting from any grade change of adjacent streets, the same being hereby assigned to Landlord by Tenant; however, Tenant may separately claim and receive from the condemning authority (but not from Landlord), if legally payable, compensation

for Tenant's removal and relocation costs and for Tenant's loss of business and/or business interruption, provided that such claim and recovery shall in no way diminish Landlord's recovery. Notwithstanding anything to the contrary contained in this Paragraph 4.6, if during the Lease Term the use or occupancy of any part of the Building or Premises shall be taken or appropriated temporarily for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or by private agreement in lieu thereof, this Lease shall be and remain unaffected by such taking or appropriation and Tenant shall continue to pay in full all rent payable hereunder by Tenant during the term of this Lease or private agreement in lieu thereof; in the event of any such temporary appropriation or taking, Tenant shall be entitled to receive that portion of any award which represents compensation for the loss of use or occupancy of the Premises during the term of this Lease, and Landlord shall be entitled to receive that portion of any award which represents the cost of restoration and compensation for the loss of use or occupancy of the Premises after the end of the term of this Lease and of the Building.

4.7 Landlord's Right to Enter Premises. Tenant shall report to Landlord immediately in writing any damage to or defective condition in or about the Building or Premises known to Tenant. Tenant shall not change the locks on any entrance to the Premises. Upon provision of prior notice to Tenant, Landlord and its agents, employees, and contractors shall have the right to enter the Premises at such times as Landlord deems reasonably necessary to make inspections, to exhibit the Premises to prospective purchasers and tenants and to make necessary repairs, additions, alterations, and improvements to the Building, including, without limitation, the erection, use, and maintenance of pipes and conduits. Landlord shall also be allowed to take into and through the Premises any and all needed materials that may be required to make such repairs, additions, alterations, and improvements, all without being liable to Tenant in any manner whatsoever, during such time as work is carried out in a manner so as to not interfere unreasonably with the conduct of Tenant's business therein, the rent provided herein shall in no wise abate, and Tenant waives any claim and cause of action against Landlord for damages by reason of loss or interruption to Tenant's business and profits therefrom because of the prosecution of any such work or any part thereof. In the event of emergency, or if otherwise necessary to prevent injury to persons or damage to property, such entry to the Premises may be made without notice to Tenant and by force without any liability whatsoever on the part of Landlord for damage resulting from such forcible entry.

## V

### USE AND SERVICES

5.1 Use. Tenant shall use the Premises for general office purposes and no other purpose. Tenant shall not use the Premises for any illegal purpose, nor violate any statute, regulation, rule, or order of any governmental body in its use thereof, nor create or allow to exist any nuisances or trespasses, nor do any act in or about the Premises or bring anything onto or into the Premises which will in any way increase the premium for insurance on the Premises or the Building, nor deface or injure the Premises or overload the floor of the Premises.

5.2 Utility and Other Charges. Tenant shall promptly pay and discharge, directly to the

providing utility if possible, as and when the same become due, all charges incurred in connection with water and electricity to the Premises. In the event there is a single meter to the Building, Tenant shall pay a pro rata share of the utilities as determined by Landlord as additional rent.

5.3 Real Estate Taxes. Tenant shall promptly pay all personal property taxes with regard to Tenant's personal property on or before the date that the same become due and payable. Landlord shall pay the real estate taxes, with no right of proportionate reimbursement from Tenant.

5.4 Tenant's Failure to Pay. In the event that Tenant shall fail, after written notice from Landlord and 15 days to cure, to pay any of the foregoing items required by this Article to be paid by Tenant, Landlord may (but shall be under no obligation to) pay the same; and any amounts so advanced therefor by Landlord shall become an additional obligation of Tenant hereunder, which amounts shall constitute additional rental hereunder, payable by Tenant upon receipt of demand therefor.

## VI COMPLIANCE WITH LAWS

6.1 Compliance With Laws. Tenant shall comply, at its own expense, with all statutes, regulations, rules, ordinances, and orders of any governmental body, department, or agency thereof which apply to or result from Tenant's use or occupancy of the Building and the Premises.

## VII INSURANCE, LIABILITY, AND INDEMNIFICATION

### 7.1 Insurance.

(a) Tenant shall carry fire and extended coverage insurance insuring all partitions, fixtures, additions and other property placed in or about the Premises, and any and all furniture, equipment, supplies, and other property contained therein, such insurance coverage to be in the full replacement value thereof less reasonable deductible.

(b) Tenant also agrees to carry a policy or policies of worker's compensation and comprehensive general liability insurance, including personal injury and property damage, with contractual liability endorsement, in the amount of One Million Dollars (\$1,000,000) for property damage and One Million Dollars (\$1,000,000) for occurrence for personal injuries or deaths of persons occurring in or about the Premises.

(c) Said insurance policies as described in the foregoing Paragraphs (a) and (b) shall: (i) name Landlord as an insured and insure Landlord's contingent liability under this Lease (except for the worker's compensation policy, which shall instead include a waiver of subrogation endorsement in favor of Landlord), (ii) be issued by an insurance company which is reasonably acceptable to Landlord and licensed to do business in the State of South Carolina, and (iii)

provide that said insurance shall not be canceled unless thirty (30) days prior written notice shall have been given to Landlord. Said policy or policies, or certificates thereof, shall be delivered to Landlord by Tenant upon commencement of the term of the Lease and upon each renewal of said insurance.

(d) In addition to insurance for the Premises, Landlord shall carry and pay for fire, casualty, wind and hail insurance on the Building in an amount equal to the full replacement cost of the Building, with no right of proportionate reimbursement from Tenant.

7.2 Waiver of Subrogation. Landlord and Tenant each hereby releases the other from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation or otherwise for any loss of damage to property caused by fire or any other perils insured in policies of insurance covering such property, even if such loss or damage shall have been caused by the fault or negligence of the other party, or anyone for whom such party may be responsible, including without limitation any other tenants or occupants of the remainder of the Building; provided, however, that this release shall be applicable and in force and effect only to the extent that such release shall be lawful at that time and in any event only with respect to loss or damage occurring during such time as the releasor's policies shall contain a clause or endorsement to the effect that any such release shall not adversely affect or impair said policies or prejudice the right of the releasor to recover thereunder and then only to the extent of the insurance proceeds paid under such policies.

7.3 Indemnify. Either party (the "Indemnifying Party") shall indemnify and shall hold the other harmless from and defend the other party against any and all claims, demands, liability, costs, losses or expenses (including attorney's fees and costs) for any injury or death to any person or damage to any property whatsoever arising out of or in any way relating to any act or omission of the Indemnifying Party or Indemnifying Party's agents, employees, contractors, invitees, licensees, tenants or assignees. In case any action or proceeding be brought against the other party by reason of any claims or liability, the Indemnifying Party agrees to cause such action or proceeding to be defended at Indemnifying Party's sole expense by counsel reasonably satisfactory to the other party. The provisions of this Lease with respect to any claims or liability occurring or caused prior to any expiration or termination of this Lease shall survive such expiration or termination.

7.4 Liability of Landlord. Except as otherwise expressly provided herein, Landlord shall not be liable to Tenant or to any person, firm, corporation, or other business association claiming by, through or under Tenant for failure to furnish or for delay in furnishing any service provided for in this Lease, and no such failure or delay by Landlord shall be an actual or constructive eviction of Tenant nor shall any such failure or delay operate to relieve Tenant from the prompt and punctual performance of each and all the covenants to be performed herein by Tenant; nor for any latent defects in the Premises or Building; nor for defects in the cooling, heating, electric, water, elevator, or other apparatus or systems or for water discharged from sprinkler systems, if any, in the Building; nor for the theft, mysterious disappearance, or loss of any property of Tenant whether from Premises or any part of the Building. Landlord shall not be liable for any interference, disturbance, or act whether caused by another tenant or tenants of Landlord or other person, nor shall Tenant be relieved from any obligation herein because of such interference,

disturbance, or act. No officer, director, shareholder, or partner of Landlord, or of any partner of Landlord, shall have any personal liability whatsoever with respect to this Lease. Further, Landlord's obligations and liabilities under this Lease shall be limited solely to Landlord's interest in the Building, as such interest is constituted from time to time.

## VIII DEFAULT AND RELATED REQUIREMENTS

### 8.1 Default and Remedies.

(a) The occurrence of any of the following shall constitute an event of default:

- (i) The rent (including any additional rent) and any other sum of money payable under this Lease, whether to Landlord or other wise, is not paid within fifteen (15) days of the due date thereof;
- (ii) Tenant's interest in the Lease or the Premises shall be subjected to any attachment, levy, or sale pursuant to any order or decree entered against Tenant in any legal proceeding and such order or decree shall not be vacated within thirty (30) days of entry thereof; or
- (iii) Tenant breaches or fails to comply with any term, provision, condition, or covenant of this Lease, other than the payment of rent, or with any of the Rules and Regulations now or hereafter established from time to time by Landlord to govern the operation of the Building and such breach or failure is not cured within fifteen (15) days, or such longer period as is necessary if such default is incapable of being cured within fifteen (15) days provided that Tenant has commenced and is diligently pursuing cure, after written notice of such breach or failure is given to Tenant.

(b) Upon the occurrence of an event of default, and following application of any notice and cure period, Landlord shall have to option to do and perform any one or more of the following in addition to, and not in limitation of, any other remedy or right permitted it by law or in equity or by this Lease:

- (i) Landlord, with or without terminating this Lease, may immediately or at any time thereafter re-enter the Premises and correct or repair any condition which shall constitute a failure on Tenant's part to keep, observe, perform, satisfy, or abide by any term, condition, covenant, agreement, or obligation of this Lease or of the Rules and Regulations now in effect or hereafter adopted or of any notice given Tenant by Landlord pursuant to the terms of this Lease, and Tenant shall fully reimburse and compensate Landlord on demand for all reasonable expenses.
- (ii) Landlord, with or without terminating this Lease, may immediately or at any time thereafter demand in writing that Tenant vacate the Premises and thereupon

Tenant shall vacate the Premises and remove therefrom all property thereon belonging to or placed on the Premises by, at the direction of, or with consent of Tenant within sixty (60) days of receipt by Tenant of such notice from Landlord, whereupon Landlord shall have the right to re-enter and take possession of the Premises. Any such demand, re-entry and taking possession of the Premises by Landlord shall not of itself constitute an acceptance by Landlord of a surrender of this Lease or of the Premises by Tenant and shall not of itself constitute a termination of this Lease by Landlord.

iii) Landlord, with or without terminating this Lease, may immediately or at any time thereafter re-enter the Premises and remove therefrom Tenant and all property belonging to or placed on the Premises by, at the direction of, or with consent of Tenant. Any such re-entry and removal by Landlord shall not of itself constitute an acceptance by Landlord of a surrender of this Lease or of the Premises by Tenant and shall not of itself constitute a termination of this Lease by Landlord.

(iv) Landlord, with or without terminating this Lease, may immediately or at any time thereafter relet the Premises or any part thereof for such time or times, at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable, and Landlord may make any alterations or repairs to the Premises which it may deem necessary or proper to facilitate such reletting; and if this Lease shall not have been terminated, Tenant shall continue to pay all rent and all other charges due under this Lease up to and including the date of beginning of payment of rent by any subsequent tenant of part or all of the Premises, and thereafter Tenant shall pay monthly during the remainder of the term of this lease the difference, if any, between the rent and other charges collected from any such subsequent tenant or tenants and the rent and other charges reserved in this Lease, but Tenant shall not be entitled to receive any excess of any such rents collected over the rents reserved herein.

(v) Landlord may immediately or at any time thereafter terminate this Lease, and this Lease shall be deemed to have been terminated upon receipt by Tenant of written notice of such termination; upon such termination Landlord shall recover from Tenant all damages Landlord may suffer by reason of such termination including, without limitation, unamortized sums expended by Landlord for construction of Tenant Improvements, all arrearage in rentals, costs, charges, additional rentals, and reimbursements, the cost (including court costs and attorneys' fees) of recovering possession of the Premises, and, in addition thereto, Landlord at its election shall have and recover from Tenant either (1) an amount equal to the excess, if any, of the total amount of all rents and other charges to be paid by Tenant for the remainder of the term of this Lease over the then reasonable rental value of the Premises for the remainder of the term of this Lease, or (2) the rents and other charges which Landlord would be entitled to receive from Tenant pursuant to the provisions of subparagraph 8.1 (b) (iv) if the Lease were not terminated. Such election shall be made by Landlord by serving

written notice upon tenant of its choice of one of the two said alternatives within thirty (30) days of the notice of termination.

(c) No course of dealing between Landlord and Tenant or any failure or delay on the part of Landlord in exercising any rights of Landlord under this Paragraph 8.1 or under any other provisions of this Lease shall operate as a waiver of any rights of Landlord hereunder or under any other provisions of this Lease, nor shall any waiver of a default on one occasion operate as a waiver of any subsequent default or any other default. No express waiver shall affect any condition, covenant, rule, or regulation other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

(d) The exercise by Landlord of any one or more of the rights and remedies provided in this Lease shall not prevent the subsequent exercise by Landlord of any one or more of the other rights and remedies herein provided. All remedies provided for in this Lease are cumulative and may, at the election of Landlord, be exercised alternatively, successively, or in any other manner, and all remedies provided for in this Lease are in addition to any other rights provided for or allowed by law or in equity.

8.2 Insolvency or Bankruptcy. The appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or an assignment of Tenant for the benefit of creditors, or any action taken or suffered by Tenant or any action against Tenant under any insolvency, bankruptcy, or reorganization act, shall at Landlord's option constitute an event of default under this Lease. Upon the happening of any such event of default or at any time thereafter, this Lease shall terminate five (5) days after written notice of termination from Landlord to Tenant. In no event shall this Lease be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency, or reorganization proceedings.

8.3 Late Payments. Tenant shall pay, as a late charge in the event any installment of rent, additional rent, or other charge to be paid by Tenant hereunder is not paid within fifteen (15) days of when due, the greater of \$100.00 or an amount equal to five percent (5%) of the amount due (but in no event shall the amount of such late charge exceed an amount based upon the highest legally permissible rate chargeable at any time by Landlord under the circumstances). Tenant shall also pay, as a late charge, an amount equal to one and one-half percent (1.5%) of the amount due to Landlord hereunder, for each thirty (30) day period that such amount remains unpaid, commencing upon the end of the first (1st) thirty (30) day period after the due date of such amount. Should Tenant make a partial payment of past due amounts, the amount of such partial payment of past due amounts, the amount of such partial payment shall be applied first to reduce all accrued and unpaid late charges, in inverse order of their maturity, and then to reduce all other past due amounts, in inverse order of their maturity. If any rent, additional rent, or other debt owing by one party to the other hereunder is collected by or through an attorney at law, the prevailing party shall be entitled to collect its reasonable actual attorneys' fees and costs incurred in the collection of such rent or other debt.

8.4 Waiver of Homestead. Tenant hereby waives and renounces all homestead or

exemption rights which Tenant may have under or by virtue of the Constitutions and Laws of the United States, the State of South Carolina, and any other State, as against any debt or sum Tenant may owe Landlord under this Lease and hereby transfers, conveys, and assigns to Landlord all homestead or exemption rights which may be allowed or set apart to Tenant, including such as may be set apart in any bankruptcy proceeding, to pay any debt or sum owing by Tenant to Landlord hereunder.

8.5 No Waiver of Rights. No failure or delay of Landlord to exercise any right or power given it herein or to insist upon strict compliance by Tenant of any obligation imposed on it herein and no custom or practice of either party hereto at variance with any term hereof shall constitute a waiver or a modification of the terms hereof by Landlord or any right it has herein to demand strict compliance with the terms hereof by Tenant. No person has or shall have any authority to waive any provision of this Lease unless such waiver is expressly made in writing and signed by an authorized officer of Landlord.

## IX MISCELLANEOUS PROVISIONS

9.1 Broker. Each party represents and warrants to the other that, no broker, agent, commission salesman, or other person has represented Tenant in the negotiations for and procurement of this Lease and of the Premises and that no commissions, fees, or compensation of any kind are due and payable in connection herewith to any broker, agent, commission salesman, or other person. Tenant agrees to indemnify and hold Landlord harmless from any and all claims, suits, demands, costs, liability, or judgments (including, without limitation, reasonable attorney's fees and court costs incurred in connection with any such claims, suits, or judgments or in the enforcement of this indemnity) for any fees, commissions connected with any claimed agency relationship with Tenant. Tenant further agrees that, in the event (i) this Lease shall terminate prior to the Expiration Date as a result of any default hereunder by Tenant, or (ii) Landlord shall exercise any of Landlord's rights and remedies pursuant to Paragraph 8.1 (b) as a result of Tenant's default, whether or not this Lease is terminated, then in either of such events Tenant shall reimburse Landlord for the amount of any commission owing or paid to any such broker or brokers with respect to this Lease, or any portion of the term hereof, after such default.

9.2 Addresses and Notices. All notices or other communications required or desired to be given with respect to this Lease shall be in writing and shall be delivered by hand or by courier service to the Premises (if to Tenant) or the address hereinafter provided, or sent by registered or certified mail, return receipt requested, bearing adequate postage and properly addressed as hereinafter provided. Each notice given by mail shall be deemed given and received on the date such notice shall have been postmarked by the U.S. Postal Service; each notice delivered by hand or by courier service shall be deemed to have been given and received when actually received by the party intended to receive such notice. In the event of a change of address by either party, such party shall give written notice thereof in accordance with the foregoing, except that such notice of change of address shall be deemed to have been given only when actually received.

a. Landlord: Rollin McKim and Janice McKim

20 Towne Square, PMB 390  
Bluffton, SC 29910

b. Tenant: Dennis Corporation  
5000 Thurmond Mall, Suite 114  
Columbia, South Carolina 29201  
Attention: Daniel R. Dennis, III

Rejection or other refusal to accept or inability to deliver because of changed address or status of which no notice was given shall be deemed to be receipt of the notice sent.

9.3 Entire Agreement and Exhibits. This Lease constitutes and contains the sole and entire agreement of Landlord and Tenant and no prior or contemporaneous oral or written representation or agreement between the parties and affecting the Premises shall have legal effect. The content of each and every exhibit which is referenced in this Lease as being attached hereto is incorporated into this Lease as fully as if set forth in the body of this Lease.

9.4 Subordination and Attornment. This Lease and all rights of Tenant hereunder are and shall be subject and subordinate to the lien of any mortgage, deed to secure debt, deed of trust, or other instrument in the nature thereof which may now or hereafter affect Landlord's fee title to the Premises and to any other instrument encumbering the fee title of the Premises and to any modifications, renewals, consolidations, extensions, or replacements thereof, including, without limitation, any declaration of covenants, conditions, and restrictions, and amendments thereto, that may not or hereafter affect Landlord's fee title to the Premises. The above subordination shall be self-operative, and no further instrument of subordination shall be necessary to evidence such subordination. In confirmation of such subordination, Tenant shall, upon demand, at any time or times, execute, acknowledge, and deliver to Landlord or the holder of any such mortgage, deed to secure debt, deed of trust, or other instrument, without expense, any and all instruments that may be requested by Landlord or such holder to evidence the subordination of this Lease and all rights hereunder to the lien of any such mortgage, deed to secure debt, deed of trust, or other instrument, and each such renewal, modification, consolidation, replacement, and extension thereof, and if Tenant shall fail at any time, within ten (10) days following the giving of a written request therefor, to execute, acknowledge, and deliver any such instrument, Landlord or such holder, in addition to any other remedies available to it in consequence thereof, may execute, acknowledge, and deliver the same as the attorney-in-fact of Tenant and in Tenant's name, place, and stead, and Tenant hereby irrevocably makes, constitutes, and appoints Landlord or such holder, and their respective successors and assigns, such attorney-in-fact for that purpose. Tenant shall, upon demand, at any time or times, execute, acknowledge, and deliver to Landlord or to the holder of any mortgage, deed to secure debt, deed of trust, or other instrument affecting or encumbering the fee title of the Premises, without expense, any and all instruments that may be necessary to make this Lease superior to the lien of any such mortgage, deed to secure debt, deed of trust or other instrument, and each renewal, modification, consolidation, replacement, and extension thereof, and, if Tenant shall fail at any time, within ten (10) days following the giving of a written request therefor, to execute, acknowledge, and deliver any such instrument, Landlord or such holder, in addition to any other remedies available to it in consequence thereof, may execute, acknowledge, and deliver the same as the attorney-in-fact of

Tenant and in Tenant's name, place, and stead, and Tenant hereby irrevocably makes, constitutes, and appoints Landlord or such holder, and their respective successors and assigns, such attorney-in-fact for that purpose. If the holder of any mortgage, deed to secure debt, deed of trust or other instrument affecting or encumbering the fee title of the Premises shall hereafter succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or delivery of a new lease, Tenant shall, at the option of such holder, attorn to and recognize such successor as Tenant's landlord under this Lease and shall promptly execute and deliver any instrument that may be necessary to evidence such Attornment, and Tenant hereby irrevocably appoints Landlord or such holder the attorney-in-fact of Tenant to execute and deliver such instrument on behalf of Tenant should Tenant refuse and fail to do so within ten (10) days after Landlord or such holder shall have given notice to Tenant requesting the execution and delivery of such instrument. Upon such Attornment, this Lease shall continue in full force and effect as a direct lease between such successor landlord and Tenant, subject to all of the terms, covenants, and conditions of this Lease.

9.5 Estoppel Certificate. At any time and from time to time, Tenant, on or before the date specified in a request therefor made by Landlord, which date shall not be earlier than ten (10) days from the making of such request, shall execute, acknowledge, and deliver to Landlord a certificate evidencing whether or not (i) this Lease is in full force and effect, (ii) this Lease has been amended in any way, (iii) there are any existing defaults on the part of Landlord hereunder to the knowledge of Tenant and specifying the nature of such default, if any, (iv) the date to which rent, and other amounts due hereunder, if any, have been paid, and (v) any other reasonable information pertaining to the Lease or to the Premises that Landlord may request. Each certificate delivered pursuant to this Paragraph may be relied on by any prospective purchaser or transferee of Landlord's interest hereunder or of any part of Landlord's property or by any mortgagee of Landlord's interest hereunder or of any part of Landlord's property or by an assignee of any such mortgagee.

9.6 Severability. If any clause or provision of this Lease is or becomes illegal, invalid, or unenforceable because of present or future laws or any rule or regulation of any governmental body or entity, effective during its term, the intention of the parties hereto is that the remaining parts of this Lease shall not be affected thereby, unless such invalidity is, in the sole determination of Landlord, essential to the rights of both parties in which event Landlord has the right to terminate this Lease on written notice to Tenant.

9.7 Captions. The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.

9.8 Successors and Assigns. The provisions of this Lease shall inure to the benefit of and be binding upon Landlord and Tenant, and their respective successors, heirs, legal representatives, and assigns. It is understood and agreed that the term "Landlord", as used in this Lease, means only the owner(s) from time to time of the Building and/or the land underlying the Building.

9.9 Applicable Law. The laws of the State of South Carolina shall govern the interpretation, validity, performance, and enforcement of this Lease.

9.10 Time is of the Essence. Time is of the essence of this Lease.

9.11 Execution. This lease may be executed in any number of counterparts, each of which shall be deemed an original and any of which shall be deemed to be complete in itself and may be introduced into evidence or used for any purpose without the production of the other counterparts. No modification or amendment of this Lease shall be binding upon the parties unless such modification or amendment is in writing and signed by Landlord and Tenant.

9.12 Force Majeure. Landlord shall be excused for the period of any reasonable delay and shall not be deemed in default with respect to the performance of any of the terms, covenants, and conditions of this Lease when prevented from so doing by a cause or causes beyond the Landlord's control, which shall include, without limitation, all labor disputes, governmental regulations or controls, fire or other casualty, inability to obtain any material services, acts of God, inclement weather or any other cause not within the reasonable control of the Landlord ("Force Majeure").

9.13 Multiple Tenants. If more than one individual or entity comprises and constitutes Tenant, then all individuals and entities comprising Tenant are and shall each be jointly and severally liable for the due and proper performance of Tenant's duties and obligations arising under or in connection with this Lease.

9.14 No Recordation of Lease. This Lease is not in recordable form, and Tenant agrees not to record or permit the recording of this Lease. Landlord agrees, at Tenant's request, to record a Memorandum of Lease memorializing the Lease and setting forth the Tenant's right of first refusal provided for below.

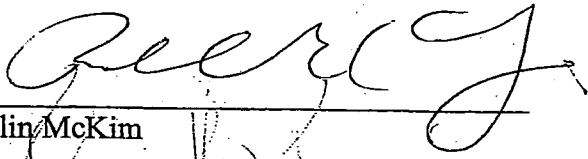
9.15 Right of First Refusal. As additional consideration for the rents paid hereunder, Landlord hereby grants to Tenant a right of first refusal to purchase the Building on the same terms and conditions as any offer presented to Landlord. Prior to any conveyance of the Building by Landlord, Landlord shall submit to Tenant in writing the terms on which Landlord has agreed to sell the Building (the "Offer"). Tenant shall have thirty (30) days (the "Offer Period") from receipt of such written notice to notify Landlord of its election to purchase the Building on the same terms as the Offer. If Tenant notifies Landlord in writing of its election to purchase the Building on the terms set forth in the Offer, Landlord shall sell the Building to Tenant on such terms. Closing shall occur within thirty (30) days of such notice from Tenant to Landlord. Landlord shall be responsible for such closing costs as are customary in Beaufort County, South Carolina for sellers and Tenant shall be responsible for buyer's customary closing costs. In the event that Tenant does not notify Landlord of its intention to purchase the Building within the Offer Period, Tenant shall be deemed to have waived its right of first refusal and Landlord may proceed to sell the Building at the terms set forth in the Offer; provided however, Landlord may not sell the Building on any terms different from those set forth in the Offer.

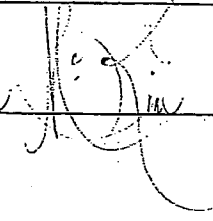
9.16. Publicity/Confidentiality: All notices to third parties (including employees) and other publicity concerning the transaction contemplated by this Lease shall be jointly planned and coordinated by and among the parties hereto. Each party recognizes the need for confidentiality of certain information pertaining both to this transaction. Therefore, each party and their agents and representatives will hold in strict confidence all data and information obtained from the other or any of their officers, agents or representatives pertaining to this Lease; provided however, that nothing contained in this paragraph 9.16 shall prohibit either party from disclosing the terms of this Lease to its respective lender, accountant, attorney, or to any governmental agency which may require a copy.

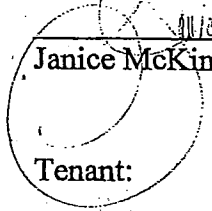
*Signature page to follow.*

IN WITNESS WHEREOF, the parties hereto have duly executed this instrument in duplicate, individually or through their respective authorized officers, agents, or attorneys-in-fact, as the case may be, causing their respective seals to be affixed hereto, the day and year set forth to the left of their respective executions, the latest of which is and shall be deemed to be the date of this Lease.

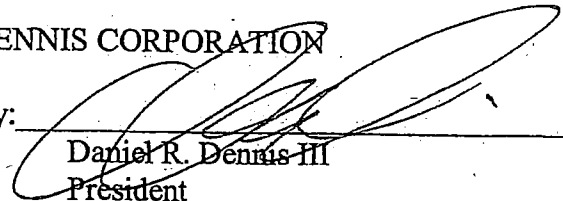
Landlord:

  
\_\_\_\_\_  
Rollin McKim

  
\_\_\_\_\_  
Janice McKim

  
\_\_\_\_\_  
Tenant:

DENNIS CORPORATION

By: 

\_\_\_\_\_  
Daniel R. Dennis III  
President

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
In the Court of Common Pleas

Marvin H. Dukes, Presiding Judge

Case No. 2016-000767

**RECEIVED**

DEC 28 2016

SC Court of Appeals

JRC Properties, LLC ..... Respondent,

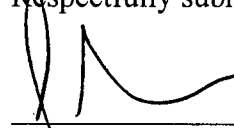
v.

Dennis Corporation, a South Carolina Corporation,  
and Daniel R. Dennis, III ..... Appellants.

**CERTIFICATE OF COUNSEL**

The undersigned counsel for Appellants certifies that the Record on Appeal  
complies with Rule 210(g) SCAR.

Respectfully submitted,



S. Jahue Moore  
MOORE TAYLOR LAW FIRM, P.A.  
P.O. Box 5709  
West Columbia, South Carolina 29171  
Telephone: 803-796-9160  
Attorney for Appellants

West Columbia, South Carolina  
December 29, 2016