THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

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

Appellate Case No. 2016-001266

PERSONAL CARE, INC.,

Appellant,

vs.

Jerry N. Theos; URICCHIO, HOWE, KRELL, JOHNSON, TOPOREK THEOS & KEITH, PA; Cheryl D. Shoun; and TAYLOR, SHOUN, BOWLEY & BYRD, LLC,

Respondents.

INITIAL REPLY BRIEF OF APPELLANT TO SUPPLEMENTAL BRIEF OF RESPONDENTS, JERRY N. THEOS and URICCHIO, HOWE, KRELL, JOHNSON, TOPOREK, THEOS & KEITH, P.A.

Thomas A. Pendarvis, J.D.
Christopher W. Lempesis, Jr., J.D., LL.M.
PENDARVIS LAW OFFICES, P.C.
710 Boundary Street, Suite A1
Beaufort, SC 29902-4188
843.524.9500 Tel.
Thomas@PendarvisLaw.com
Chris@PendarvisLaw.com

Counsel for Appellant, PERSONAL CARE, INC.

TABLE OF CONTENTS

Table of Authorities ii

Reply Arguments 1

I. Trial Court's Order of August 28, 2013, Has No Impact on this Appeal and Does Not Prevent Restoration of this Case 1

II. The Complexity of Procedural History Is Not at Issue but the Procedure That Respondents Argue for Is 2

III. In and of Itself, Scrcp 40(j) Allows for a Hearing Only as to Whether its Tolling Provisions Are to Be Applied. 3

IV. Appellant Has Not Had a Genuine Opportunity to Oppose the Affirmative Defense. 5

V. Even Though the Trial Court Should Have Never Considered Substantive Arguments, the Statute of Limitations Does Not Bar Appellant's Claims and Respondents Should Be Estopped from Defending on the Basis of a Statute of Limitations 6

VI. The Court Should Disregard the Respondents' Brief as There Is No Legal Authority or Support for Respondents' Position 9

Conclusion 10

TABLE OF AUTHORITIES

Cases **Page**

Argoe v. Three Rivers Behavioral Health, LLC, ___ S.C. ___, ___ S.E.2d ___, 2017 WL 1293986(Ct. App. April 5, 2017) 2

Atl. Coast Builders & Contractors, LLC v. Lewis, 398 S.C. 323, 730 S.E.2d 282 (2012) 10

Ellie, Inc. v. Miccichi, 358 S.C. 78, 594 S.E.2d 485 (Ct. App. 2004) 10

Ex parte Wilson, 367 S.C. 7, 625 S.E.2d 205 (2005) 1, 3

Green v. Lewis Truck Lines, Inc., 314 S.C. 303, 443 S.E.2d 906 (1994) 3

Hunt v. Forestry Comm'n, 358 S.C. 564, 595 S.E.2d 846 (Ct. App. 2004) 10

Knotts v. S.C. Dept. of Natural Resources, 348 S.C. 1, 558 S.E.2d 511 (2002) 3

Maxwell v. Genez, 356 S.C. 617, 591 S.E.2d 26 (2003) 3, 8-9

Rules

Rule 7(b), SCRCP 4

Rule 40(j), SCRCP . . . . . *in passim*

Rule 56, SCRCP . . . . . *in passim*

Rule 208(b), SCACR 10

REPLY ARGUMENTS

I. Trial Court's Order of August 28, 2013, Has No Impact on this Appeal and Does Not Prevent Restoration of this Case.

The trial court's one page order filed on August 28, 2013 only references Rule 40(j), SCRCP, and requires that if the claim is restored in a year, the statute of limitations being tolled shall again commence to run. Rule 40(j), SCRCP, does not provide a circuit court with the discretion to conduct the proceedings that the trial court conducted in this situation; and neither does the trial court's original Rule 40(j) Order.

As the general Comment for Rule 40 states: ". . . Rule 40 is substantially a compendium of present Circuit Court Rules governing preparation of trial rosters, setting the order of cases for trial, and granting postponement or continuance." The trial court was required to read and apply Rule 40(j) within the context in which the rule is written. *See Ex parte Wilson*, 367 S.C. 7, 15, 625 S.E.2d 205, 209 (2005) (internal citations omitted). The trial court failed to appropriately read or apply Rule 40, SCRCP. Clearly, Rule 40 was not written and should not be applied by a trial court as a dispositive mechanism to determine meritorious claims or defenses. Obviously, the trial court had no guidance in this situation under Rule 40, after all, in an attempt to justify its effective grant of summary judgment, the Court concocted an *ad hoc* process whereby it provided Appellant an "opportunity" to submit an affidavit to oppose the affirmative defense argued by Respondents, notwithstanding the only pending motion was Appellant's Rule 40 motion. Rule 40(j) simply does not provide for the proceedings the trial court concocted and it does not operate to prevent Appellant's restoration of this case.

Also, Respondents have quoted, without citation or reference, the phrase "law of the case." "The doctrine of the law of the case prohibits issues which have been decided in a prior appeal from

being relitigated in the trial court in the same case." *Argoe v. Three Rivers Behavioral Health, LLC,* ___ *S.C.* ___, ___ S.E.2d ___, 2017 WL 1293986 *3 (Ct. App. April 5, 2017). This is the first appeal in this matter, and there has been no remand. Respondents' attempt to apply the"law of the case" doctrine to the order of Judge Dennis should be flatly rejected. Respondents have not provided legal basis upon which to substantiate the argument that the "law of the case" concept is even remotely applicable to this appeal; and anyway, the Order signed by Judge Dennis simply does not establish strict terms and requirements that must be met to reinstate the case. This Court should disregard or reject this argument, which was not ruled upon by the trial court and cannot constitute an additional sustaining ground.

II. The Complexity of Procedural History Is Not at Issue but the Procedure That Respondents Argue for Is.

Respondents attempt to re-frame the procedural history of this case. The record disagrees wholly with the history presented by Respondents, as well as the mischaracterizations it includes. Respondents argue in support of the following process: parties enter a Rule 40(j) consent order; a party moves to restore; the opposing party argues an affirmative defense without filing a motion; the trial court may then allow presentation of an affidavit; then the trial court makes factual findings as to whether or not there is a disputed question of fact; and then the trial court can decide whether to restore the case. Respondents argue that whether discovery has been conducted at all is immaterial (no discovery was conducted in this case), and that essentially Rule 40(j) implicitly provides a summary judgment type of procedure, where trial courts do not have to contend with Rule 56(f) affidavits, or viewing evidence in the light most favorable to the non-moving party; or that a scintilla of evidence dictates that summary judgment cannot be granted; or inferences drawn from evidence should be viewed in the light most favorable to the non-moving party. The

complexity of the procedural history is immaterial. "... Rule 40(j) does not have a deadline during which a motion to restore must be filed." *Maxwell v. Genez*, 356 S.C. 617, 622, 591 S.E.2d 26, 28 (2003). Respondents were granted relief not properly requested, that the trial court had no authority to give, and that the trial court should not have given considering the circumstances and the evidence. This case should be remanded. That is about as simple as it gets.

III. In and of Itself, Scrcp 40(j) Allows for a Hearing Only as to Whether its Tolling Provisions Are to Be Applied.

> Courts should consider not only the particular clause in which a word may be used, but the word and its meaning in conjunction with the purpose of the whole rule and the policy of the rule. ... In construing a rule, language in the rule must be read in a sense which harmonizes with its subject matter and accords with its general purpose.

Ex parte Wilson, 367 S.C. 7, 15, 625 S.E.2d 205, 209 (2005) (internal citations omitted).

If a rule within the South Carolina Rules of Civil Procedure is plain, unambiguous, and conveys a clear meaning, interpretation is unnecessary and the stated meaning should be enforced. *See Knotts v. S.C. Dept. of Natural Resources*, 348 S.C. 1, 558 S.E.2d 511 (2002); *Green v. Lewis Truck Lines, Inc.*, 314 S.C. 303, 443 S.E.2d 906 (1994); *Maxwell v. Genez*, 356 S.C. 617, 620, 591 S.E.2d 26, 27 (2003).

> A party moving to restore a case stricken from the docket shall provide all parties notice of the motion to restore at least 10 days before it is heard. Upon being restored, the case shall be placed on the General Docket and proceed from that date as provided in this rule.

Rule 40(j), SCRCP. Respondents incorrectly argue that Rule 40(j) expressly requires a hearing on the merits of the case. This is not true. Rule 40(j) requires notice of the filing of a motion to restore 10 days before a hearing on whether Rule 40(j) will toll the statute of limitations. Rule 40 (j) also indicates that upon being restored, the case shall be placed on the General Docket, clearly conveying that a case is to be restored upon the filing and notice of a motion to restore. As the general

Comment for Rule 40 states: ". . . Rule 40 is substantially a compendium of present Circuit Court Rules governing preparation of trial rosters, setting the order of cases for trial, and granting postponement or continuance." Rule 40, SCRCP. The question raised by a Rule 40(j) hearing is not whether restoration is possible, but whether the moving party receives the benefit of the tolling of the statute of limitations upon the case being restored; and otherwise, clearly, Rule 40 is administrative in function.

The South Carolina Rules of Civil Procedure are clear in that a trial court cannot conduct an analysis under a summary judgment evidentiary standard unless and until a motion for summary judgment has been filed. See Rules 7(b) and Rule 56, SCRCP. Rule 40(j) does not provide a procedural basis for such an inquiry. Respondents did not move for summary judgment.

While Rule 40 does not provide for a substantive inquiry by a trial court, Rules 12 and 56, SCRCP, for instance, do provide and contemplate substantive inquiry by a trial court, even limiting the trial court's substantive review to pleadings in a Rule 12 motion; and converting a Rule 12(b) or 12(c) motion to a motion for summary judgment under Rule 56; or specifically providing requirements for substantive information such as affidavits, as contained in Rules 56(e) and (f). There are simply no such standards or procedures contained in Rule 40, SCRCP, except for Rule 40(j) providing an opportunity for a hearing as to whether or not the statute of limitations should be tolled pursuant to Rule 40(j).

There is no support whatsoever for Respondents' argument regarding the form and substance of a hearing on the merits under Rule 40(j); but there is ample support within the SCRCP, and decisional law to support the idea that the Rule 40)(j) hearing is confined to administrative matters and so Respondents' argument regarding a hearing on the merits pursuant to Rule 40(j) should be ignored or dismissed out of hand.

IV. Appellant Has Not Had a Genuine Opportunity to Oppose the Affirmative Defense.

Respondents argue that because Appellant was given an *ad hoc* opportunity to submit an affidavit by way of the Court's Order of June 22, 2015, Appellant has had an appropriate opportunity to engage in a substantive discussion of whether an affirmative statute of limitations defense bars Appellant's claims. Throughout their brief, Respondents reference evidence they presented as well as the trial court's factual findings based on such evidence.[1] Yet, Respondents have not provided authority that supports the trial court's fact finding exercise prompted only by Appellants' motion pursuant to Rule 40(j). Also missing from the trial court's orders and the Respondents' brief are the standards or context in which the fact-finding exercise was to occur. For instance, neither the trial court nor Respondents discuss viewing evidence in the light most favorable to the Appellant, or actually any standard whatsoever for the ad hoc review the trial court exercised. Also, the trial court orders do not discuss or acknowledge Appellant's arguments regarding the need to conduct discovery on such issues as whether estoppel considerations prevent Respondents from benefitting from a statute of limitations question that Respondents created where Respondents did not advise Appellant of the legal malpractice in question and actually instead, explained that the subject counterclaims should not be seriously considered. (R. ____, Plaintiff's Memorandum in Support of Motion to Restore Pursuant to Rule 40(J), SCRCP, p. 10-12; R. ____, Plaintiff's Motion to Alter or Amend Judgment, p. 4); (R. ___, Aff. of Cignavitch, filed Jan. 7, 2016).

---

[1] Respondents argue that Appellant had "multiple opportunities" to "present any evidence Appellant wished to present. ..." (Resp. Supp Br. at 1.); that "[b]ased on the evidence, the Motion to Reinstate was correctly denied as the state of limitations barred the Appellant's claim. ..." any prejudice Appellant claims was corrected by an opportunity to "..present any evidence it wished to support its motion [to restore]. ..." (Resp. Supp Br. at 5.); that the trial court acted "based on such uncontroverted evidence ..." (Resp. Supp Br. at 7.); "[t]he Circuit Court properly found that, under the discovery rule, the statute of limitations began to run no later than March 2010. ..."(Resp. Br. at 22.).

The fact that the trial court reconsidered its initial order to provide Appellant an opportunity to submit an affidavit does not change the fact that the trial court had no authority to engage in a fact finding mission regarding the merits of an affirmative defense. Respondents have focused on the evidence they presented and contend that there are no disputed facts. Clearly, Respondents argue in support of the trial court's grant of a dispositive motion that was never filed. Yet, the trial court's orders and the Respondents' arguments demonstrate that the procedural and substantive requirements surrounding a dispositive motion were not met. (In its initial brief to this court, Appellant has previously illustrated and cited the evidentiary standard, the standard of review, and requisites regarding evidence to refute a motion for summary judgment and incorporates that information herein by this reference.)

On the one hand, Respondents argue that the trial court did not engage in a summary judgment analysis, but instead an analysis under Rule 40(j), SCRCP; but on the other hand, Respondents argue that there are no questions of fact, which is a part of the standard governing whether summary judgment is appropriate.

The trial court's perfunctory offer to accept an affidavit does not equate to an opportunity to oppose a motion for summary judgment. Respondents' arguments in this regard neglect and ignore all of the other considerations surrounding summary judgment analysis, and again, Respondents cite no authority supporting their position. Respondents' arguments regarding Appellant's opportunity to argue against application of their affirmative defense should be ignored or dismissed out of hand.

V. Even Though the Trial Court Should Have Never Considered Substantive Arguments, the Statute of Limitations Does Not Bar Appellant's Claims and Respondents Should Be Estopped from Defending on the Basis of a Statute of Limitations.

Respondents argue the merits of Appellant's position regarding the affirmative defense of

statute of limitations. Respondents argues that Appellant's position is meritless because the evidence Respondents presented was no controverted and there are no issues of fact. ("As the Record reflects, no issue of fact exists..."; "Therefore, based on such uncontroverted evidence..."). Yet Appellant submitted an Affidavit that clearly controverts whether there existed objective evidence of actions or perceptions of Appellant that suggest awareness that a claim accrued. (R. ___, Aff. of Cignavitch, filed Jan. 7, 2016). Also, Appellant has continuously argued that Respondents should be estopped from arguing the statute of limitations because of Respondents' conduct which stalled Appellant's or anyone's consideration of a legal malpractice claim where Respondents explicitly explained that there was no merit to the defamation counterclaim:

> As late as July 2012, Mr. Theos sent emails to Personal Care stating, "***As we have previously advised you, we believe and contend that their counterclaim is meritless, as truth is an absolute defense to such a claim***."

(R. ____, Plaintiff's Memorandum in Support of Motion to Restore, p. 10-12; R. ____, Plaintiff's Motion to Alter or Amend Judgment, p. 4; R. ___, Aff. of Cignavitch, filed Jan. 7, 2016).

Most alarming is Respondents' argument that a motion for summary judgment and its requirements are only "hyper-technical" requirements that "overturn court efficiency on its head." Respondents boldly argue that the Court of Appeals should simply dispense with the "hyper-technical" and "inefficient" aspects of Rule 56, SCRCP. This argument begs the question as to why an assessment of an issue of fact is even in question. Impliedly, Respondents has argued that under a summary judgment standard, the evidence submitted establishes that there is no question of fact before the Court and thus the Court's refusal to reinstate the case is justified. There is no such standard within Rule 40(j). Turning to the summary judgment standard applied to a motion pursuant to Rule 56, and as Appellant has already argued in its initial brief, there were genuine issues of material fact as to the affirmative defense of statute of limitations, however, that question was not

properly before the trial court as no motion was filed and there is simply no authority which suggests that Rule 40 allows for effective dismissal because no issue of fact exists.

Respondents argue that it makes no sense that the Court must wait to consider the statute of limitations defense until after reinstatement of the case. If–after the case had been restored, as it should have been–Respondents had filed and noticed a motion for summary judgment, the trial court would have had the option of reviewing the record and whatever each party submitted and could have made a decision in accordance with Rule 56 and its applicable evidentiary standards. Respondents are silent as to *how* the court in *Maxwell v. Genez*, 356 S.C. 617, 622 at n.2, 591 S.E.2d 26 (2003) came to consider the record in *Maxwell*, which was developed through discovery.

Arguments regarding the merits of the affirmative defense, or the merits of Appellant's opposition to that affirmative defense, should have ever been considered by the trial court under a Rule 40(j) motion. That is the first thrust of this appeal, however, given the continued arguments from Respondents that assume the propriety of the trial court's process (a process without legal basis or authority). Appellant is placed in the position of responding on the merits of the affirmative defense of the statute of limitations and its counter to that defense - all without the benefit of any discovery whatsoever. Without the benefit of discovery and while protesting the *ad hoc* proceedings, Appellant submitted the Affidavit of Mr. Cignavitch, which states clearly that Mr. Cignavitch was not aware of the nature of the counter-claims against Appellant nor the conflicts of interest of Respondents nor Respondents providing or failing to provide advice regarding the nature, existence, or strength of the counterclaims arising as a direct and undeniable result of the conduct of Respondents. Respondents has cited several emails that only provide copies of pleadings, discuss extensions for Respondents to answer the counterclaim, and request information so that an insurance carrier can be notified. The emails that Respondents have cited do not explain the counterclaim or

that the counterclaim is a direct result of the negligence of Mr. Theos. There is no discussion within the emails regarding agent authority that Mr. Theos negligently exercised. There is no discussion within the emails explaining the law of defamation. Yet based on a string of emails discussing scheduling, extensions and carrier contact information, the trial court concluded that a person of common knowledge and experience would have been put on notice that claims against his corporation's lawyer might exist, even where the lawyer has explained that the defamation case and counterclaim were meritless.

There was evidence in the record calling into dispute whether the statute of limitations defense was applicable, but that point is immaterial to the first consideration, which is that the trial court should never have considered the merits of an affirmative defense in a Rule 40(j) hearing. The Respondents' arguments regarding the merits of Appellant's position on the affirmative defense have no citation to authority and no support in the law and should be ignored or dismissed out of hand.

VI. The Court Should Disregard the Respondents' Brief as There Is No Legal Authority or Support for Respondents' Position.

". . . Rule 40(j) does not have a deadline during which a motion to restore must be filed." *Maxwell v. Genez*, 356 S.C. 617, 622, 591 S.E.2d 26, 28 (2003). Respondents' brief lacks citation to authority that contradicts this point. Actually, Respondents' brief lacks citation to authority for arguments raised in paragraphs 1 through 3, spanning the bottom of page 1 of the brief to page 2; the points raised on page 2 of the brief concerning the "law of the case" and the order signed by Judge Dennis, the argument concerning the substance of a Rule 40(j) hearing appearing on page 4 of the brief; the argument presented on pages 4 through 5 of the brief indicating that Appellants were provided opportunity to present evidence; and the arguments presented on pages 5 through 10,

where Respondents seemingly argue that Appellant failed to meet a summary judgment standard and/or that Respondents met such an unknown standard with presentation of "uncontroverted evidence." No authority is cited, because there is none. Respondents' arguments should be rejected.

Rule 208(b)(2), SCACR, dictates that Respondents' brief shall conform to Rule 208(b)(1)(D), SCACR. Rule 208(b)(1)(D) requires that each part of a brief must include discussion with citations to authority. Also, decisional law from the South Carolina Supreme Court and that of the Court of Appeals is clear that for each legal point made, a brief should include citation to appropriate authority. *See Hunt v. Forestry Comm'n*, 358 S.C. 564, 573, 595 S.E.2d 846, 851 (Ct. App. 2004) ("Issues raised in a brief but not supported by authority are deemed abandoned and will not be considered on appeal."); *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 327 n. 1, 730 S.E.2d 282, 284 n. 1 (2012) (finding an issue abandoned when the argument in appellant's brief was "purely a recitation of facts, devoid of any citation to legal authority," resulting in a summary conclusion); *Ellie, Inc. v. Miccichi*, 358 S.C. 78, 594 S.E.2d 485 (Ct. App. 2004) (finding an issue abandoned where appellants failed to cite any supporting authority for their position and all arguments were merely conclusory statements). On the basis of Rule 208, SCACR, as well as abundant case law including that referenced above, the above referenced sections of Respondents' brief should each be completely disregarded.

CONCLUSION

There is no authority to support Respondents' positions in its brief, and there is none cited. While Rule 40(j), SCRCP, allows for a hearing as to whether its one-year tolling provision should apply, there are no provisions in Rule 40 regarding a trial court's analysis of the merits of claims or defenses. Where a trial court conducts a substantive review of evidence, that review must come as a result of a proper motion before the Court, with proper opportunity for the non-moving party's

opposition. Where a trial court acts outside of the authority or perview of a motion, the trial court has committed reversible error. The trial court err in its application of Rule 40(j), SCRCP; and in holding that, in the context of only a Rule 40(j) Motion to Restore, *Maxwell v. Genez*, 356 S.C. 617, 620-621, 591 S.E.2d 26, 28 (2003) provides the trial court the authority to conduct an ad hoc inquiry into the merits of the claims and/or defenses of the parties. The proper standard of the trial court's review in the context of a Motion to Restore pursuant to Rule 40(j) is limited to whether such a Motion has been properly filed. The trial court in the proceedings subject of this appeal did not properly apply the standard under Rules 40(j), nor 41, SCRCP. Further, the evidence before the circuit court raise disputed questions of material fact as to a statute of limitations defense, precluding a de facto grant of summary judgment in favor of Respondents. The trial court's orders should be reversed.

Respectfully submitted,

PENDARVIS LAW OFFICES, P.C.

Thomas A. Pendarvis (SC Bar # 064918)
Christopher W. Lempesis, Jr. (SC Bar #77012)
710 Boundary Street, Suite 1-A
Beaufort, SC 29902
843.524.9500 Tel.
Thomas@PendarvisLaw.com
Chris@PendarvisLaw.com

Counsel for Personal Care, PERSONAL CARE, INC.

Beaufort, South Carolina

April 14, 2017

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

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

Appellate Case No. 2016-001266

RECEIVED
APR 18 2017
SC Court of Appeals

Personal Care, Inc.,

Appellant,

vs.

Jerry N. Theos; URICCHIO, HOWE, KRELL, JOHNSON, TOPOREK THEOS & KEITH, PA; Cheryl D. Shoun; and TAYLOR, SHOUN, BOWLEY & BYRD, LLC,

Respondents.

PROOF OF SERVICE

I, Thomas A. Pendarvis, a lawyer with PENDARVIS LAW OFFICES, P.C., certify that I have served one (1) copy of Initial Reply Brief of Appellant to Supplemental Brief of Respondents Jerry N. Theos; Uricchio, Howe, Krell, Johnson, Toporek, Theos & Keith, P.A.'s, by depositing a copy of the same in the United States Mail, postage prepaid, on the14th day of April, 2017, addressed to:

M. Dawes Cooke, Jr., J.D.
Phillip S. Ferderigos, J.D.
BARNWELL, WHALEY, PATTERSON & HELMS, LLC
PO. Drawer H
Charleston, SC 29402
mdc@barnwell-whaley.com
pferderigos@barnwell-whaley.com

Attorneys for Defendants Jerry N. Theos and URICCHIO, HOWE, KRELL, JACOBSON, TOPOREK, THEOS & KEITH, P.A.

George J. Kefalos, J.D.
GEORGE J. KEFALOS, PA
46A State Street
Charleston, SC 29401
george@kefaloslaw.com
oana@kefaloslaw.com

Attorney for Defendant TAYLOR BOWLEY AND BYRD, LLC

Richard A. Farrier, Jr., J.D.
K&L GATES LLP
134 Meeting Street, Suite 200
Charleston, SC 29401
richard.farrier@klgates.com

Attorney for Cheryl D. Shoun

Oana D. Johnson, J.D.
Attorney at Law
215 East Bay Street, Suite 406
Charleston, SC 29401
oana@odjlaw.com

Attorney for Defendant TAYLOR BOWLEY AND BYRD, LLC

Respectfully submitted,

PENDARVIS LAW OFFICES, P.C.

Thomas A. Pendarvis (SC Bar # 064918)
Christopher W. Lempesis, Jr. (SC Bar #77012)
710 Boundary Street, Suite 1-A
Beaufort, SC 29902
843.524.9500 Tel.
Thomas@PendarvisLaw.com
Chris@PendarvisLaw.Com

Counsel for PERSONAL CARE, INC.

Beaufort, South Carolina

April 14, 2017

PENDARVIS LAW OFFICES, PC

April 14, 2017

RECEIVED
APR 18 2017
SC Court of Appeals

VIA US MAIL
The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

Re: *Personal Care, Inc., v. Jerry N. Theos, et al.*
Appellate Case No. 2016-001266

Dear Ms. Kitchings:

Enclosed for filing please find the original and one copy of the following:

1. INITIAL REPLY BRIEF OF APPELLANT TO INITIAL BRIEF OF RESPONDENTS CHERYL D. SHOUN AND TAYLOR, SHOUN, BOWLEY & BYRD, LLC;
2. PROOF OF SERVICE;
3. INITIAL REPLY BRIEF OF APPELLANT TO SUPPLEMENTAL BRIEF OF RESPONDENTS JERRY N. THEOS; URICCHIO, HOWE, KRELL, JOHNSON, TOPOREK, THEOS & KEITH, P.A.
4. PROOF OF SERVICE.

Kindly file the originals and return the clocked copies in the stamped, self-addressed return envelope enclosed for your convenience.

By copy of this letter and pursuant to the Proofs of Service, all counsel of record are being serving with copies of same.

With kind regards, I remain

Sincerely,

PENDARVIS LAW OFFICES, P.C.

Thomas A. Pendarvis

TAP/ses
Enclosures

THOMAS A. PENDARVIS, J.D.
Admitted in SC and GA
Thomas@PendarvisLaw.com
Board Certified in Legal Malpractice
by the American Board of
Professional Liability Attorneys

710 BOUNDARY STREET, UNIT A1
BEAUFORT, SC 29902-4188
PendarvisLaw.com
843.524.9500

CHRISTOPHER W. LEMPESIS, JR.
Juris Doctor and Master of Laws
Chris@PendarvisLaw.com

cc w/encls: M. Dawes Cooke, Jr., J.D.
Phillip S. Ferderigos, J.D.
George J. Kefalos, J.D.
Oana D. Johnson, J.D.
Richard A. Farrier, Jr., J.D.
ec w/encls: Bernard Cignavitch

THOMAS A. PENDARVIS, J.D.
Admitted in SC and GA
Thomas@PendarvisLaw.com
Board Certified in Legal Malpractice
by the American Board of
Professional Liability Attorneys

710 BOUNDARY STREET, UNIT A1
BEAUFORT, SC 29902-4188
PendarvisLaw.com
843.524.9500

CHRISTOPHER W. LEMPESIS, JR.
Juris Doctor and Master of Laws
Chris@PendarvisLaw.com