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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

Robin B. Stilwell, Circuit Court Judge

Case No. 2006-CP-39-1826
Appellate Case No. 2015-001536

RECEIVED

JUN 13 2018

SC Court of Appeals

J. Scott KunstRespondent,

v:

David LoreeAppellant.

APPELLANT'S PETITION FOR REHEARING

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Pursuant to Rule 221(a), SCACR and Rule 240(i), SCACR, Appellant David Loree (“Loree”) respectfully petitions this Court for a rehearing of Opinion No. 5564, dated May 30, 2018. Rehearing is warranted when the Court has overlooked or misapprehended points (as further described below). *Kennedy v. S.C. Retirement System*, 349 S.C. 531, 564 S.E.2d 322 (2001).

SUMMARY OF ARGUMENT

In its Opinion, the Court either overlooked or misapprehended the Record from the trial court and the evidence admitted at trial. The Court’s misapprehension or confusion regarding the evidentiary Record from the trial court led the Court to misapply well-settled principles of South Carolina law, and, in at least one instance, cited evidence (which was in the Record) of illicit accounting activity to affirm the trial court.

QUESTIONS PRESENTED

1. Did the Court overlook or misapprehend the law and evidence related to the elements of slander per se?
2. Did the Court overlook or misapprehend items in the trial record concerning truth as a defense?
3. Did the Court overlook or misapprehend items in the trial record concerning the affirmative defense of qualified privilege?
4. Did the Court overlook or misapprehend the law in South Carolina regarding commingling of corporate and personal funds?

STATEMENT OF FACTS

Loree is employed by Richard and Barbara Gaby (“Gabys”). The Gabys hired Respondent J. Scott Kunst (“Kunst”) to design and build a custom home in The Reserve on Lake

Keowee. Kunst owned a design and contracting firm, Kunstwerke. Loree, at the direction of the Gabys, investigated Kunst's work on the Gaby home when it became evident that Kunstwerke was over budget and taking longer to complete the house than Kunst represented. (R. 26, Tr., testimony of David Loree, pgs. 163: 3- 164: 9). As is customary in the construction of residences, Kunstwerke would submit an invoice to Mr. Gaby for work thus far completed. Mr. Gaby would pay Kunstwerke the requested amount, with the understanding that Kunstwerke in turn would pay the subcontractors and vendors listed on the invoices. (R.127, Tr., testimony of David Loree, p. 166: 4-8). In the course of his investigation, Loree contacted subcontractors and vendors to determine whether or not they had been paid by Kunstwerke. (R. 128, Tr., testimony of David Loree, p. 171: 11-19). Loree found that Kunstwerke was not paying the subcontractors and vendors as he was obligated to do, even after Kunstwerke received funds from the Gabys to pay the invoices. (R. 143-147, Tr., testimony of David Loree, pgs. 223-245). Loree also found in some cases that Kunst changed invoice amounts submitted to the Gabys (for amounts more than submitted by the subcontractor). (R. 141 - 147, Tr., testimony of David Loree, pgs. 223-245). These, and other of Loree's findings, were among the evidence presented at the damages hearing in the Gaby action against Kunst, held before the Honorable G. Edward Welmaker on March 13, 2007. ("Gaby Action") (R. 23, Order of Judge Welmaker). Judge Welmaker found all facts pertaining to the pertinent causes of action were admitted. The facts included:

1. Kunst failed to pay vendors and subcontractors as called for in the contract with the Gabys;
2. Kunst performed defective work;
3. Kunst diverted the Gabys' funds for his own personal use;
4. Kunst engaged in unfair and deceptive trade practices; and

5. Kunst breached his fiduciary duty to the Gabys.

Judge Welmaker also found the Gabys proved their damages claim and he awarded \$353,993.91 in damages, with attorney's fees and costs in the amount of \$35,807.41.

In paragraph 53 of his Complaint (R. 34-35), Kunst alleged that all of the "Defendants" defamed him in the following manner:¹

- Defendants stated "Plaintiff embezzled money from the Defendants";
- Defendants stated "Plaintiff embezzled money from other clients";
- Defendants reported to numerous sub laborers and suppliers that funds intended for them were taken by the Plaintiff for his own personal use;
- Defendants "stated to numerous business associates, clients, and The Reserve sales staff that the Plaintiff was in financial trouble and unable to meet his future obligations."
- Defendants stated to "associates of the Plaintiff that the Plaintiff could go to prison";
- Defendants "planted rumors that the Plaintiff's design work and construction were defective and that he lacked professional qualifications."

Kunst, although a former CPA, was unable to keep his company, Kunstwerke, financially solvent. Kunst claimed that the reason his business failed was because Loree informed other Kunstwerke clients about Kunst's nefarious acts. However, tax liens filed by both the Internal Revenue Service and the South Carolina Department of Revenue indicate that Kunst's financial woes began as far back as 2003, well before Loree started his investigation in 2006. (R. 409-455, Defendant's trial exhibits 19, 20, and 21, tax liens).

¹ Kunst later changed the statements at pre-trial hearings. (R. 39-40) Plaintiff's pre-trial brief, pgs. 1-2.

In sum, during the scope of the investigation Loree performed for his employer, he found Kunst had failed to pay vendors and subcontractors, overcharged on vendor invoices, and used funds paid by the Gabys to Kunstwerke (to be used for payment to subcontractors and suppliers) for his personal use. Judge Welmaker granted damages to Loree's employer based on Loree's findings. If Loree did make the defamatory statements as Kunst alleges, the Record evidence and the public records of South Carolina clearly and uncontrovertibly establish that the statements are true and were made during the performance of his duty and protected by qualified privilege, which was never claimed to be exceeded.

ARGUMENT

I. Did the Court overlook or misapprehend the law and evidence related to the elements of slander per se?

The Court wrote in its Opinion that, "we note that statements alleging the commission of a crime, such as theft, are actionable per se." Respectfully, the Court misapprehends the standard for defamation per se. South Carolina law holds that only crimes involving *moral turpitude* are actionable per se.

Defamation "is actionable per se when the defendant's alleged defamatory statements charge the plaintiff with one of five types of acts or characteristics: (1) commission of a crime of moral turpitude; (2) contraction of a loathsome disease; (3) adultery; (4) unchastity; or (5) unfitness in one's business or profession." *Goodwin v. Kennedy*, 347 S.C. 30, 36, 552 S.E.2d 319, 322-23 (Ct.App. 2001).

However, not all crimes are "crimes of moral turpitude." The Supreme Court addresses this issue: "The question is whether the commission of such a crime is egregious enough such

that it may be viewed as a breach of respondent's duty to his fellow man and society as a whole." *Green v. Hewett*, 305 S.C. 238, 241, 407 S.E.2d 651, 652 (1991).

The Court then cites two examples for which it holds that Loree did, in fact, accuse Kunst of crimes of moral turpitude: (1) "Goad testified Loree told him that Kunst took money from clients and used clients' money for an investment project", and (2) "Alfonzo testified Loree mentioned that Kunst took out an insurance policy on the Gaby project, billed the Gabys, and intentionally canceled the policy to keep the money."

The Court then finds that, "Viewing the evidence in a light most favorable to Kunst, the nonmoving party, we find Loree's statements were actionable *per se* because the statements accused Kunst of committing a crime of moral turpitude—theft."

The Court overlooks two critical factors with such a holding: (1) neither statement involves an accusation that would be "egregious enough such that it may be viewed as a breach of [Kunst's] duty to his fellow man and society as a whole", and (2) these statements are supported by the Record evidence as being true.

This Court cites *McBride v. School District of Greenville County*, 389 S.C. 546, 698 S.E.2d 845, 852 (Ct. App. 2010) for its holding related to crimes of moral turpitude. Indeed, in *McBride*, this Court found the statement that a teacher stole school property was actionable *per se*. In *McBride*, the Court cited the case of *Bell v. Bank of Abbeville*, 208 S.C. 490, 496, 38 S.E.2d 641, 644 (1946) which held that an allegation charging the plaintiff with larceny or breach of trust was actionable *per se*. However, unlike Kunst's allegations related to his few clients, these cases involve plaintiffs whose actions affected "society as a whole." *Green*, 305 S.C. at 241. A teacher who takes school property is in effect taking property from all the

taxpayers in that school district. A bank teller who takes money from customers' deposits is in effect taking money from the bank and its investors.

In this matter, the Court overlooks the fact that there is no evidence in the Record, nor any evidence presented at trial, that the alleged statements would affect more persons than just Kunst's clients, **which were five in number**. Certainly, even if made, these statements certainly don't affect society. Further, because there is nothing in the alleged statements rising to the level of baseness, vileness, or depravity, nor any evidence in the Record to support such a finding, this Court misinterprets that the statements above equate with "crimes of moral turpitude."

Next, the Court overlooks the Record evidence on the statements. Regarding the "investment property" or spec house, Kunst himself testified that, "I had already made arrangements to go back to building speculative houses only. And I already had one house under way that was spec only with an investor from Florida. His name was Thomas Hickey." (2nd Supp. R. 324, Tr., testimony of Scott Kunst, p. 312:6-10). Then, when asked about where Kunst kept his funds for the investment or "spec" project, Kunst admits readily that,

Q When you were doing the spec houses, you testified that you only had one checking account; is that correct?

A I've always had only one checking account.

(2nd Supp. R. 324, Tr., testimony of Scott Kunst, p. 367:25-368:1).

As discussed in Section IV, Kunst simply admitting that he took Kunstwerke corporate funds for his personal use does not excuse such behavior, nor does it legitimate the illicit siphoning of corporate funds for improper uses.

Regarding the insurance policy, the Record is clear that the statement is not refuted. Kunst and his fiancée attempt to explain *why* the insurance policy was cancelled, but nowhere in

the Record will the Court find that Kunst did, in fact, refund the money paid by the Gabys for the policy. This distinction is, of course, a critical one. Further, Loree's unrefuted testimony establishes the matter further:

Q Do you have any evidence as you sit here today that I took out an insurance policy for the Gaby's [sic] and intentionally canceled it the next day and billed the Gaby's [sic] for it and pocketed the money?

A Could I see my testimony from the damages hearing?

Q I'm asking you do you have evidence as you sit here today?

A I believe I do. If you'd show me that document, I can read that verbatim for you. I think that's what occurred.

(2nd Supp. R. 324, Tr., testimony of David Loree, p. 95:22-196:9).

II. Did the Court overlook or misapprehend items in the trial Record concerning truth as a defense?

A. Kunst's Allegations in General

In its Opinion, this Court explicitly accepted the following statements presented by Kunst as the alleged defamatory statements made by Loree. These statements have either been proven to be true or proven that Loree never made them:

- **The Plaintiff embezzled \$400,000 from the Gabys.**

Judge Welmaker awarded the Gabys a judgment of \$353,993.91 in damages, with attorney's fees and costs in the amount of \$35,807.41. (*See* R. 23, Order of Judge Welmaker, Defense Exhibit 23). Were this not true, Judge Welmaker would not have awarded the judgment. Therefore, there is irrefutable evidence in the form of a court

judgment that this statement is true and that Loree did not defame Kunst if he actually made this statement.

- **The Plaintiff embezzled money from all of his clients.**

This statement was proven to be true in the testimony of Eugene C. Covington, Jr., who testified that Kunst took money from his project and that subcontractors involved in his project were not paid. Therefore, if Loree actually made this statement, it is true and not defamatory. (*See, e.g.*, R. 156, Tr., testimony of Eugene Covington, p. 282: 19-25).

- **The Plaintiff had taken money from named clients Parham, Covington, Coco, and Hickey.**

Kunst called as a witness Eugene Covington, Jr. who testified that Kunst had taken money from him. (*See, e.g.*, R. 156, Tr., testimony of Eugene Covington, p. 282: 19-25). Kunst did not call Parham, Coco or Hickey as witnesses. The Court states that the testimony of Goad and Alfonso supports Kunst's allegation. However, Goad testified that he only talked to Loree concerning the accounting on the Gaby project. (R. 119, Tr., testimony of Kevin Goad, p. 135: 4-8).

- **The Plaintiff created dummy invoices from dummy companies so that he could steal money from these clients.**

Loree introduced in his testimony invoices and a letter from Select Stone and Systems Specialties (R. 371, 373, 375, 377, Defense Exhibits 2, 3, 4, and 5) to show that Kunst marked up invoices to the Gabys. (R. 141 - 142, Tr., testimony of David Loree, pgs. 223: 10 - 228: 25). Kunst never introduced any evidence to refute Loree's testimony.

- **The Plaintiff took money from his clients to spend on an investment project, a car, trips, and family members.**

This statement was proven to be true in the testimony of Eugene C. Covington, Jr., who testified that Kunst took money from his project and that subcontractors involved in his project were not paid. Therefore, if Loree actually made this statement, it is true and not defamatory. (2nd Supp. R. 385, 381, 382, 380, Tr., testimony of Scott Kunst, pgs. 373:15-374:7; 369:24-370:1; 370:10-12; 368:23-25.)

- **The Plaintiff did “criminal things” like take out an insurance policy, bill the Gabys, and then cancel it the next day so that he could keep the money.**

Glenn Alfonzo, another of Kunst’s witnesses, read from “his” affidavit that Loree said Kunst was a criminal, but on cross-examination, admitted that the affidavit was incorrect and that it did not reflect what he had said. (R. 124, Tr., Glenn Alfonzo testimony, p. 153: 14 - p. 154: 13). Alfonzo later admitted that his affidavit, if ever corrected, should state that Loree told him Kunst did things that were criminal. However, Alfonzo also admitted Kunst prepared his affidavit, leaving it in question as to whether the affidavit really reflects what Alfonzo heard or what Kunst wanted him to say that he heard. (R. 124, Tr. testimony of Glenn Alfonzo, p. 156: 14-21). Interestingly, Alfonzo testified that it was true that the Kunstwerke checks to him bounced and so he made arrangements for Kunstwerke to pay him with certified checks. (R. 124, Tr., Glenn Alfonzo testimony, p. 155: 1-8). Alfonzo’s testimony established that it is doubtful Alfonzo really heard Loree accuse Kunst of criminal acts, but it is certain the Kunstwerke checks bounced.

- **The Plaintiff “is going to jail.”**

Goad did not recall who told him Kunst was going to jail. (R. 120, Tr., testimony of Kevin Goad, p. 137: 1-8).

- **The Plaintiff took money from his other projects and that money was missing from these projects.**

Covington testified that Kunst had not paid the subcontractors on his project. (R. 156, Tr., testimony of Eugene Covington, p. 282: 19-25). Covington further testified that Kunst used the money Covington paid for his project to purchase a wedding ring for Kunst’s fiancée. (R. 156, Tr., testimony of Eugene Covington p. 283:25). Covington went on to testify that he tried to have an accounting done for his project, but Kunst never provided financial records to Covington’s forensic accounting expert. (R. 157, Tr., testimony of Eugene Covington, p. 285: 1-8).

B. The Court Should Not Defer to “Explanations,” But Rather Only Record Evidence

In its Opinion, the Court affirmed the trial court on the defense of truth. The Court writes that conflicting evidence was presented regarding the “statements:” (1) “Loree asserted his statements that Kunst took money from clients and spent it elsewhere were true because Loree introduced letters and invoices from suppliers showing Kunst did not pay subcontractors, despite receiving the funds to make the payments,” and (2) “Loree argued that Kunst’s own witness, Edward Covington, testified Kunst took money from his project and spent the money on an engagement ring.”

The Court overlooks uncontroverted, Record evidence here. Kunst does not deny that that he took money from Kunstwerke personal accounts. In fact, Kunst admits freely that he

used Kunstwerke funds for personal purchases: to purchase an engagement ring for his fiancée, to pay for his apartment, for his parents' house, and, among other things, a BMW. (2nd Supp. R. 385, 381, 382, 380, Tr., testimony of Scott Kunst, pgs. 373:15-374:7; 369:24-370:1; 370:10-12; 368:23-25.) Gene Covington's testimony is uncontroverted. (2nd Supp. R. 294, Tr., testimony of Eugene Covington 282:20-25). The Record is bereft of evidence that contradicts these statements. The Record does, though, offer that Kunst freely testified that he used Kunstwerke funds between his various projects and that he took money for personal use.

While the testimony in the Record is a bit tortured, as the trial court gave Kunst – a pro se litigant - very wide latitude with his testimony and admission of evidence, this Court cannot find evidence that controverts the statements it posits as example. The Record does contain Kunst's *explanations* of why he did do these things – but he cannot deny the fact that he did these things.

After overlooking the Record evidence, the Court then writes that, “Conversely, Kunst explained how his personal draw schedule allowed him to make personal purchases—such as an engagement ring in 2005—using Kunstwerke capital collected from clients in the form of design fees.” The Court seems to then find that Kunst's “testimony and explanations [of taking money from Kunstwerke for personal expenditures] were sufficient to create a conflict in the veracity of Loree's alleged statements.” This will be discussed in Section IV.

Loree is not asking this Court to weigh evidence. There is simply no evidence in the Record to weigh on these issues. The statements were, at a minimum, substantially true. Simply because explanations were offered, that does not create a credible refutation. In fact, an explanation is antithetical to evidence of a denial. This Court should not defer to the trial court when the evidence is, at best “speculative, theoretical, and hypothetical....” *Parrish v. Allison*, 376 S.C. 308, 319–20, 656 S.E.2d 382, 388 (Ct. App. 2007).

III. Did the Court overlook or misapprehend items in the trial record concerning the affirmative defense of qualified privilege?

A. No Actual Malice

Kunst offered no evidence whatsoever to show Loree acted with actual malice, that is, with a reckless disregard for Kunst's rights. First, Loree's unrefuted testimony was that Kunst did not direct Loree to avoid contacting his clients; in fact, Loree testified that Kunst did not seem to care if he contacted the clients. (R. 141, Tr., testimony of David Loree, pg. 222: 2-10). Kunst's witness Eugene Covington testified that he had never seen or met with Loree. (R. 156, Tr., testimony of Eugene Covington, p. 282, l. 19-25). Kunst's witness Goad testified Loree only discussed the Gaby project with him. (R. 119, Tr., testimony of Kevin Goad, p. 135, 4-8). Goad further testified that because Kunst had disappeared from the project site and could not be located, Loree became the contact man for payment. (R. 117, Tr., testimony of Kevin Goad, p. 125: 6-14). Kunst's witness Alfonzo testified that Loree had said Kunst had done criminal things, not that Kunst was a criminal. Alfonzo also testified that Loree consulted him to make sure he had been paid so that the project could go forward. (R. 124, Tr., testimony of Glenn Alfonzo, p. 155: 16-19). No witness testified that Loree had behaved in a reckless or wanton manner. Kunst produced no evidence to show that Loree had made defamatory statements (though, even if made, the statements were true) to people not concerned with the investigation Loree was conducting on behalf of his employer.

B. Scope Was Not Exceeded

An appellate court sitting in law generally should not "find" its own facts. In some circumstances, such as review of family court decisions or cases in equity, an appellate court may make its own factual findings. However, "When an appellate court chooses to find facts in

accordance with its own view of the evidence, the court must state distinctly its findings of fact and the reason for its decision.” *Ahrens v. State*, 392 S.C. 340, 348, 709 S.E.2d 54, 58 (2011).

In its Opinion, this Court makes factual findings that were not made below. In an action at law, when a case tried by a jury is appealed, “the jurisdiction of the appellate court extends merely to the correction of errors of law, and a factual finding by the jury will not be disturbed unless a review of the record discloses there is no evidence which reasonably supports the jury’s findings.” *Wright v. Craft*, 372 S.C. 1, 18, 640 S.E.2d 486, 495 (Ct. App. 2006).

Here, the Opinion of the Court contains numerous “findings” without explanation (and inconsistent with the standard on appeal for this case at law):

1) “We find Loree’s statement that Kunst took money from other clients was not a proper matter for Loree to discuss during the investigation of the Gaby project.”

2) “In the instant case, evidence demonstrates Loree’s statements to subcontractors—that Kunst took money from other clients—went beyond the scope of the subcontractors’ involvement in the Gaby project.”

3) “We find that Loree could have investigated the Gaby project without implicating Kunst’s financial affairs with other clients.”

Respectfully, these “findings” are beyond the province of this Court. There is no evidence in the Record before this Court that Loree exceeded the scope of his qualified immunity. There are no Record facts alleged below that Loree did so. The issue before this Court regarding qualified immunity related to the actual malice element. The issue of exceeding the scope of the immunity was not raised by appellant, as this issue was not contested at the trial below.

IV. Did the Court overlook or misapprehend the law in South Carolina regarding commingling of corporate and personal funds?

As discussed above, this Court seems to imply that because Kunst testified that he used Kunstwerke funds to make certain personal expenditures, there is a conflict in evidence between Kunst and Loree.

While Kunst explains that his paying for personal items out of the Kunstwerke accounts is simply an accounting function, such a position flies in the face of generally accepted accounting practices. In fact, what Kunst did through Kunstwerke has been the subject to of many cases in South Carolina. For example, in *C.T. Lowndes & Co. v. Suburban Gas & Appliance Co.*, 307 S.C. 394, 415 S.E.2d 404 (Ct. App. 1991), this Court agreed that the siphoning of funds from a corporate account for personal use is improper.

In *C.T. Lowndes*, the circuit court found that an owner of a business (McLaughlin) took funds from the corporate accounts “for the use and benefit of himself, his family, friends, associates” and that the business “failed to retain sufficient assets to pay its creditors, failed to file tax returns for 1986 and 1987, failed to keep appropriate records or observe corporate formalities, functioned only through McLaughlin without the contribution of other officers and directors except his son, who did only what McLaughlin directed.” *Id.* at 307 S.C. 395, 415 S.E.2d 405. This Court then pierced the corporate veil due to the business’s/owner’s behavior in not maintaining correct corporate protocols and for the siphoning of corporate funds for personal use.

There are many similar cases in South Carolina – cases that hold that a business owner is not allowed to disregard corporate forms and pay himself “dividends” or “fees” which have the effect of depriving creditors of recovery of debt. See, .e.g., *Hunting v. Elders*, 359 S.C. 217,

228, 597 S.E.2d 803, 809 (Ct. App. 2004). (“The court specifically found the money was never accounted for and must have been siphoned by Elders. This is additional evidence that the corporation was used as a mere facade for the benefit of the dominant shareholder, justifying the ultimate conclusion reached by the trial court.”); *Cumberland Wood Prod., Inc. v. Bennett*, 308 S.C. 268, 272, 417 S.E.2d 617, 619 (Ct. App. 1992) (“Additionally, Tri-Wood used the money that was paid by Greif for Cumberland’s products to pay other creditors and ‘**for other investments or things.**’”)(emphasis added).

In this matter, Kunst’s testimony is clear:

Q ... You used the corporate banking account for your company, Kunstwerke, to make personal purchases, correct?

A That is correct. As personal draws.

(2nd Supp. R. 380, Tr. Testimony of Scott Kunst, 368:12-14.)

Q ... [Y]ou bought Tracy’s ring out of your corporate account, yes or no?

A Yes.

(2nd Supp. R. 380, Tr. Testimony of Scott Kunst, 368:23-25).

Q My question is while making purchases for the Cliff Ridge property from your corporate account, you were deducting the mortgage interest from that house on your personal income taxes, correct?

A The Cliff Ridge property was my primary residence, so I would have deducted the mortgage interest....

(2nd Supp. R. 380, Tr. Testimony of Scott Kunst, 379:12-18).

So, what the South Carolina Department of Revenue did was take all that money that came into my company from all these fees and had no expense income against that they imputed a large income number like four million dollar income on here. And as I stated earlier, I never made more than, I guess, it was 80 for that one year.

(2nd Supp. R. 380, Tr. Testimony of Scott Kunst, 351:13-19).

The Opinion seems to state that because Kunst testified that he did, in fact, commingle funds, there is a conflict in the evidence that warrants affirming the trial court. Such a holding is contrary to the law of South Carolina regarding the separateness of corporate entities. As Kunst himself testified, his accounting is “unique.” However, the reason the accounting is “unique” is because it is completely against generally accepted accounting practices, construction industry standard practices, established corporate procedures, and the tax laws of the United States and of South Carolina. Surely, this Court does not intend to endorse and encourage commingling of personal and corporate funds and the siphoning of funds from corporate accounts for personal use.

Kunst's confession of improper accounting should not create a conflict in the evidence. And, even if this Court does so hold, Kunst again simply offers explanations of the siphoning of funds, he does not dispute that he did, in fact, take funds from Kunstwerke for personal use.

CONCLUSION

For the foregoing reasons, Loree respectfully requests rehearing of Opinion No. 5564, dated May 30, 2018.

Respectfully submitted.

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CERTIFICATE OF COUNSEL

The undersigned certifies that the Final Brief and the Final Reply Brief of the Appellant comply with Rule 211(b), SCACR.



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Other counsel of record:

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Respondent

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

Robin B. Stilwell, Circuit Court Judge

Case No. 2006-CP-39-1826
Appellate Case No. 2015-001536

RECEIVED

JUN 13 2018

SC Court of Appeals

J. Scott Kunst Respondent,

v.

David Loree Appellant.

PROOF OF SERVICE

I certify that I have served the **Appellant's Petition for Rehearing** on *pro se* Respondent at his last-known address of 130 Arabian Way, Simpsonville, SC 29681, by depositing it into the U.S. Mail, first class postage prepaid on June 12, 2018.



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June 12, 2018

VIA FEDERAL EXPRESS

Clerk of Court
Court of Appeals
State of South Carolina
1220 Senate Street
Columbia, SC 29201

RECEIVED

JUN 13 2018

Re: *Kunst v. Loree, Appellate Case No. 2015-001536*

SC Court of Appeals

Dear Ms. Kitchings:

Enclosed for filing please find:

1. Petition for Rehearing in the above referenced case;
2. Check for the filing fee in the amount of \$25.00.

Thank you for your assistance. Please feel free to call me with any questions

Sincerely yours,



Gregory K. Smith
Counsel

GKS/jw
Enclosures

