

87367

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Ralph P. Stroman, Special Referee
Trial Court Case No. 2014-CP-26-04835

APPEAL FROM GEORGETOWN COUNTY
Ralph P. Stroman, Special Referee
Trial Court Case No. 2014-CP-22-00685

RECEIVED
JUL 17 2018
SC Court of Appeals

Appellate Case No. 2016-000329

First Citizens Bank and Trust Company, Inc., ... Respondent,

v.

Beck Holding Company, LLC, C.J.B Holding & Trust
Company, LLC, Cornelius J. Beck, Jr., Andrews Dental
Center, Inc., Inlet Dental Center, Inc., Seaside Surgical,
Inc., Georgetown Dental Center of South Carolina, Inc.
And South Beach Dental Center, Inc., ... Defendants,

Of whom Cornelius J. Beck, Jr. is the Appellant.

MOTION TO SUBSTITUTE PARTY

Now comes Respondent First Citizens Bank and Trust Company, Inc. ("First Citizens"), by and through counsel, pursuant to Rule 265(b) of the South Carolina Appellate Court Rules, and hereby moves the Court to substitute Charles P. Summerall, IV, in his capacity as Special Administrator, for Appellant Cornelius J. Beck, Jr. ("Beck") in this action and to amend the case caption to reflect the substitution. In support of the Motion, First Citizens would show the Court as follows:

1. Rule 265(b) of the South Carolina Appellate Court Rules provides that if “a party to an appeal dies . . . , the appellate court may, upon motion or its own initiative, order substitution of the proper parties” Rule 265(b), SCACR.

2. Beck passed away on October 21, 2017, with his appeal pending. A copy of his obituary is attached hereto as Exhibit A.

3. On October 26, 2017, First Citizens filed a Motion to Dismiss the appeal as moot based upon Beck’s death. The Court denied First Citizen’s Motion to Dismiss and remanded the case to the trial court to arrange for a substitution of parties.

4. On June 5, 2018, the Georgetown County Probate Court appointed Charles P. Summerall, IV as the Special Administrator solely for the purpose of substituting as a party for Beck in the First Citizens litigation. A copy of the Amended Certificate of Appointment is attached hereto as Exhibit B.

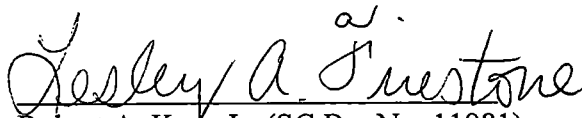
5. On June 19, 2018, the Horry County Court of Common Pleas entered the Consent Order substituting Charles P. Summerall, IV, in his capacity as Special Administrator, for Beck in the pending matter. A copy of the Consent Order entered in the Horry County Court of Common Pleas is attached hereto as Exhibit C.

6. On July 12, 2018, the Georgetown County Court of Common Pleas entered the Consent Order substituting Charles P. Summerall, IV, in his capacity as Special Administrator, for Beck in the pending matter. A copy of the Consent Order entered in the Georgetown County Court of Common Pleas is attached hereto as Exhibit D.

7. Thus, it is now proper, upon First Citizen’s Motion, for this Court to substitute Charles P. Summerall, IV, in his capacity as Special Administrator, as the Appellant and amend the case caption accordingly.

WHEREFORE, for the reasons set forth above, First Citizens prays that the Court enter an order pursuant to Rule 265(b), SCACR, granting the Motion to substitute Charles P. Summerall, IV, in his capacity as Special Administrator, as Appellant herein in place of Beck and amend the caption accordingly.

Respectfully submitted,

A handwritten signature in cursive script that reads "Lesley A. Firestone". The signature is written in dark ink and is positioned above the printed name and contact information.

Robert A. Kerr, Jr. (SC Bar No. 11981)
Lesley A. Firestone (SC Bar No. 100080)
MOORE & VAN ALLEN, PLLC
78 Wentworth Street
Post Office Box 22828
Charleston, SC 29413-2828
Telephone: (843) 579-7000
Email: robertkerr@mvalaw.com
Lesleyfirestone@mvalaw.com

Attorneys for Respondent
First Citizens Bank and Trust Company, Inc.

July 13, 2018

EXHIBIT A

Obituary of Cornelius J. Beck, Jr.

The Post and Courier

Winner of the Pulitzer Prize

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Cornelius J. Beck Jr. Obituary

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Cornelius J. Beck, Jr. DDS Pawleys Island, SC - Dr. Cornelius Johnathan Beck, Jr. DDS passed away peacefully at home in Pawleys Island, South Carolina, on Sunday, October 21, 2017 where he was surrounded by many loved family members and friends. Lovingly known as C.J., he was born in Atlanta, GA on September 29, 1952, the oldest of three sons from the union

between Dr. Cornelius J. Beck, Sr. and Mrs. Esther Manigault Beck. His parents and a brother, Mark, preceded him in death. He is survived by his wife, Julianna Hines-Beck and two loving daughters, Ms. Cornelia J. Beck and Ms. Courtney J. Beck of Pawleys Island, SC; a brother, Kurt Beck of Atlantic Beach, SC; numerous other relatives, treasured friends, clients, and colleagues. His memorial celebration will be held at Bethel A.M.E. Church located at 417 Broad Street, Georgetown, SC on Monday, October 30, 2017 at 12:00 noon. Arrangements are entrusted to Wilds Funeral Home, LLC. Dr. Beck was a strong supporter of his Alma Mater, Meharry Medical School in Nashville, TN. The family wishes that in lieu of flowers donations may be made to Meharry Medical College 1005 Dr. D.B. Todd Jr. Blvd. Nashville, TN 37208 Visit our guestbook at www.legacy.com/obituaries/charleston

Guest Book

"Praying for the family and that your loving memories guide..."

- Michelle Meeker

View

Sign

Funeral Home

Wilds Funeral Home - Georgetown
130 N Merriman Rd.
Georgetown, SC 29440
(843) 546-6901

 Funeral Home Details

 Send Flowers

Published In Charleston Post & Courier on Oct. 26, 2017

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EXHIBIT B

Amended Certificate of Appointment

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE MATTER OF
CORNELIUS J. BECK, JR.
(Decedent)

IN THE PROBATE COURT
AMENDED
CERTIFICATE OF APPOINTMENT

CASE NUMBER: 2018ES2200184

This is to certify that

CHARLES P. SUMMERALL, IV

is/are the duly qualified

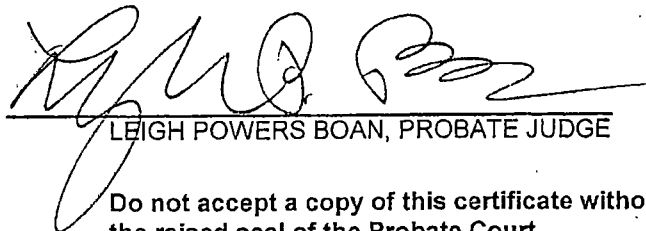
- ☐ PERSONAL REPRESENTATIVE
☐ SUCCESSOR PERSONAL REPRESENTATIVE
☒ SPECIAL ADMINISTRATOR

In the above matter and that this appointment, having been executed on the 30th
day of May, 2018 is now in full force and effect.

RESTRICTIONS:

THE APPOINTMENT OF SPECIAL ADMINISTRATOR PURSUANT TO S. C. CODE
SECTION 62-3-614, WITHOUT BOND, SOLELY FOR THE PURPOSE OF SUBSTITUTING
AS A PARTY FOR THE DECEDENT IN THE FIRST CITIZENS LITIGATION REFERENCED
IN THE PETITION, AND HIS SERVICE AS SPECIAL ADMINISTRATOR SHALL
TERMINATE UPON THE ENTRY OF A FINAL, NON-APPEALABLE ORDER IN THE FIRST
CITIZENS LITIGATION.

Executed this 5th day of June, 2018


LEIGH POWERS BOAN, PROBATE JUDGE

Do not accept a copy of this certificate without
the raised seal of the Probate Court.

EXHIBIT C

Horry County Consent Order

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	COURT FILE NO. 14-CP-26-4835
First Citizens Bank and Trust Company, Inc.,	)	
Plaintiff	)	
vs.	)	CONSENT ORDER FOR
	)	SUBSTITUTION OF DEFENDANT
	)	CORNELIUS J. BECK, JR.
Beck Holding Company, LLC, C.J.B Holding	)	
& Trust Company, LLC, Cornelius J. Beck, Jr.,	)	
Andrews Dental Center, Inc., Inlet Dental	)	
Center, Inc., Seaside Surgical, Inc.,	)	
Georgetown Dental Center of South Carolina,	)	
Inc. and South Beach Dental Center, Inc.,	)	
Defendants.	)	

This matter comes before this Court upon Plaintiff's Notice and Rule 25(a)(1) Motion for Substitution of Defendant Cornelius J. Beck, Jr., and upon the consent of all parties of record that are not in default, by and through counsel, as indicated by their signatures below. The Court finds as follows:

1. IT APPEARING that First Citizens Bank and Trust Company, Inc. ("First Citizens") filed this matter on July 17, 2014, in the Horry County Court of Common Pleas seeking foreclosure of certain property located in Horry County (the "Property") and deficiency judgments against the Defendants after the sale of the mortgaged Property; and

2. IT FURTHER APPEARING that the matters were referred to the Honorable Ralph P. Stroman, as special referee for Horry County; and

3. IT FURTHER APPEARING that all Defendants were properly served and are in default as shown by the Affidavits of Default of Daniel W. Stacy, Jr., Esquire, which were filed with this Court on September 2, 2014, and December 15, 2014; and

4. IT FURTHER APPEARING that judgment and decree of foreclosure was entered on March 31, 2015; and

5. IT FURTHER APPEARING that Defendant Cornelius J. Beck, Jr. ("Beck") filed various motions after the decree of foreclosure was entered and that this Court entered an order on February 11, 2016, denying all of Beck's motions (the "Order"); and

6. IT FURTHER APPEARING that on February 22, 2016, Beck filed a notice of appeal of the Order with the South Carolina Court of Appeals; and

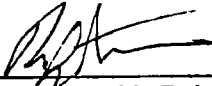
7. IT FURTHER APPEARING that Beck passed away on October 21, 2017, with his appeal pending; and

8. IT FURTHER APPEARING that First Citizens filed a motion to dismiss Beck's appeal on the basis that the appeal was rendered moot by Beck's death; and

9. IT FURTHER APPEARING that by order dated December 7, 2017, the Court of Appeals denied First Citizen's motion to dismiss; held the appeal in abeyance; and remanded the matter to the trial court for the substitution of the proper parties pursuant to Rule 25, SCRCP; and

10. IT FURTHER APPEARING that Charles P. Summerall, IV was thereafter appointed Special Administrator by the Georgetown County Probate Court to protect the rights of Beck's heirs solely in the First Citizens case on May 30, 2018, and should be substituted for Beck in this matter.

NOW THEREFORE, IT IS ORDERED that Charles P. Summerall, IV, as a Special Administrator, pursuant to Rule 25(a)(1), be substituted for the deceased Defendant Cornelius J. Beck, Jr.



The Honorable Ralph P. Stroman
Special Referee for Horry County

WE CONSENT

s/ Robert A. Kerr

Robert A. Kerr, Jr., SC Bar #11981
Moore & Van Allen PLLC
78 Wentworth Street
Post Office Box 22828
Charleston, SC 29413-2828
T (843) 579-7000
Email: robertkerr@mvalaw.com
Attorney for First Citizens Bank and Trust Company, Inc.

WE CONSENT

s/ Charles P. Summerall

Charles P. Summerall, IV, SC Bar #5433
Walker Gressette Freeman Linton LLC
66 Hasell Street
Post Office Box 22167
Charleston, SC 29413
T (843) 727-2200
Email: summerall@WGFLAW.com
Special Administrator

EXHIBIT D

Georgetown County Consent Order

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GEORGETOWN	)	COURT FILE NO. 14-CP-22-685
	)	
First Citizens Bank and Trust Company, Inc.,	)	
	)	
Plaintiff	)	
	)	
vs.	)	
	)	
Beck Holding Company, LLC, C.J.B Holding	)	CONSENT ORDER FOR
& Trust Company, LLC, Cornelius J. Beck, Jr.,	)	SUBSTITUTION OF DEFENDANT
Andrews Dental Center, Inc., Inlet Dental	)	CORNELIUS J. BECK, JR.
Center, Inc., Seaside Surgical, Inc.,	)	
Georgetown Dental Center of South Carolina,	)	
Inc. and South Beach Dental Center, Inc.,	)	
	)	
Defendants.	)	

This matter comes before this Court upon Plaintiff's Notice and Rule 25(a)(1) Motion for Substitution of Defendant Cornelius J. Beck, Jr., and upon the consent of all parties of record that are not in default, by and through counsel, as indicated by their signatures below. The Court finds as follows:

1. IT APPEARING that First Citizens Bank and Trust Company, Inc. ("First Citizens") filed this matter on July 17, 2014, in the Georgetown County Court of Common Pleas seeking foreclosure of certain property located in Georgetown County (the "Property") and deficiency judgments against the Defendants after the sale of the mortgaged Property; and
2. IT FURTHER APPEARING that the matters were referred to the Honorable Ralph P. Stroman, as special referee for Georgetown County; and
3. IT FURTHER APPEARING that all Defendants were properly served and are in default as shown by the Affidavits of Default of Daniel W. Stacy, Jr., Esquire, which were filed with this Court on September 15, 2014, and January 6, 2015; and

4. IT FURTHER APPEARING that judgment and decree of foreclosure was entered on March 31, 2015; and

5. IT FURTHER APPEARING that Defendant Cornelius J. Beck, Jr. ("Beck") filed various motions after the decree of foreclosure was entered and that this Court entered an order on February 12, 2016, denying all of Beck's motions (the "Order"); and

6. IT FURTHER APPEARING that on February 22, 2016, Beck filed a notice of appeal of the Order with the South Carolina Court of Appeals; and

7. IT FURTHER APPEARING that Beck passed away on October 21, 2017, with his appeal pending; and

8. IT FURTHER APPEARING that First Citizens filed a motion to dismiss Beck's appeal on the basis that the appeal was rendered moot by Beck's death; and

9. IT FURTHER APPEARING that by order dated December 7, 2017, the Court of Appeals denied First Citizen's motion to dismiss; held the appeal in abeyance; and remanded the matter to the trial court for the substitution of the proper parties pursuant to Rule 25, SCRCP; and

10. IT FURTHER APPEARING that Charles P. Summerall, IV was thereafter appointed Special Administrator by the Georgetown County Probate Court to protect the rights of Beck's heirs solely in the First Citizens case on May 30, 2018, and should be substituted for Beck in this matter.

NOW THEREFORE, IT IS ORDERED that Charles P. Summerall, IV, as a Special Administrator, pursuant to Rule 25(a)(1), be substituted for the deceased Defendant Cornelius J. Beck, Jr.



The Honorable Ralph P. Stroman
Special Referee for Horry County

WE CONSENT

s/ Robert A. Kerr

Robert A. Kerr, Jr., SC Bar #11981

Moore & Van Allen PLLC

78 Wentworth Street

Post Office Box 22828

Charleston, SC 29413-2828

T (843) 579-7000

Email: robertkerr@mvalaw.com

Attorney for First Citizens Bank and Trust Company, Inc.

WE CONSENT

s/ Charles P. Summerall

Charles P. Summerall, IV, SC Bar #5433

Walker Gressette Freeman Linton LLC

66 Hasell Street

Post Office Box 22167

Charleston, SC 29413

T (843) 727-2200

Email: summerall@WGFLAW.com

Special Administrator

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Ralph P. Stroman, Special Referee
Trial Court Case No. 2014-CP-26-04835

APPEAL FROM GEORGETOWN COUNTY
Ralph P. Stroman, Special Referee
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Center, Inc., Inlet Dental Center, Inc., Seaside Surgical,
Inc., Georgetown Dental Center of South Carolina, Inc.
And South Beach Dental Center, Inc., ... Defendants,

Of whom Cornelius J. Beck, Jr. is the Appellant.

PROOF OF SERVICE

This is to certify that I have this day served the Appellant in the foregoing matter
with a copy of the foregoing ***Motion to Substitute Party*** by depositing same in the United
States Mail with adequate postage affixed thereon to ensure delivery, addressed as follows:

Estate of Cornelius J. Beck, Jr.
c/o Personal Representative
34 Old Evergreen Lane
Pawley's Island, SC 29585

Charles P. Summerall, IV
Walker Gressette Freeman Linton, LLC
66 Hasell Street
Charleston, SC 29401

Beck Holding Company, LLC
c/o Cornelius J Beck, Jr.
9356-C Highway 17 Bypass
Murrells Inlet, SC 29576

Andrews Dental Center, Inc.
c/o Cornelius J Beck, Jr.
9356-C Highway 17 Bypass
Murrells Inlet, SC 29576

Seaside Surgical, Inc.
c/o Cornelius J Beck, Jr.
9356-C Highway 17 Bypass
Murrells Inlet, SC 29576

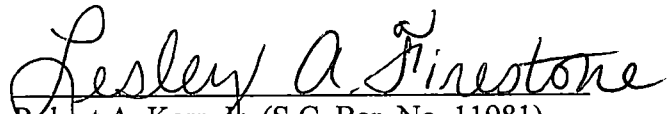
South Beach Dental Center, Inc.
c/o Cornelius J Beck, Jr.
9356-C Highway 17 Bypass
Murrells Inlet, SC 29576

C.J.B Holding & Trust Company, LLC
c/o Cameron Banks
175 Minister Drive
Georgetown, SC 29440

Inlet Dental Center, Inc.
c/o Cornelius J Beck, Jr.
9356-C Highway 17 Bypass
Murrells Inlet, SC 29576

Georgetown Dental Center of South
Carolina, Inc.
c/o Cornelius J Beck, Jr.
9356-C Highway 17 Bypass
Murrells Inlet, SC 29576

C.J.B. Holding & Trust Company, LLC
Cornelius J. Beck, Registered Agent
34 Old Evergreen Lane
Pawleys Island, SC 29585



Robert A. Kerr, Jr. (S.C. Bar. No. 11981)
Lesley A. Firestone (S.C. Bar No. 100080)
MOORE & VAN ALLEN, P.L.L.C.
78 Wentworth Street
Charleston, SC 29401
(843) 579-7000

Attorneys for Respondent

July 13, 2018

Moore&VanAllen

July 13, 2018

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

**RE: First Citizens Bank and Trust Co., Inc. Respondent
Cornelius J. Beck, Jr. Appellant
Appellate Case No. 2016-000329**

Lesley A. Firestone
Attorney at Law

T 843 579 7027
F 843 579 8720
lesleyfirestone@mvalaw.com

Moore & Van Allen PLLC

78 Wentworth St.
Charleston, SC 29401-1428

Mailing Address:
Post Office Box 22828
Charleston, SC 29413-2828

Dear Ms. Kitchings:

Enclosed for filing, please find an original and seven (7) copies of the following:

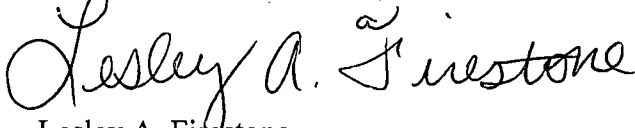
- (1) Respondent's Motion to Substitute Party;
- (2) \$25.00 fee; and
- (3) Proof of Service.

Please return a filed copy to this office in the enclosed envelope.

Thank you for your assistance in this matter and please call me with any questions.

Yours very truly,

MOORE & VAN ALLEN, PLLC



Lesley A. Firestone

LAF
Enclosures

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SC Court of Appeals

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Moore & Van Allen

Moore & Van Allen PLLC

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Charleston, SC 29413-2828

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SC Court of Appeals

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

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