

State of South Carolina)
County of Richland)

In The Court of Common Pleas
Fifth Judicial Circuit
2016-CP-40-5894

Mondre Robinson,

Plaintiff,

vs.

Owen Steel, Inc.,

Defendant.

Transcript of Record

July 10, 2017
Columbia, South Carolina

B E F O R E:

The Honorable Alison Renee Lee, Judge

A P P E A R A N C E S:

Reagan Singletary, Esquire
Attorney for the Plaintiff

Roopal S. Ruparelia, Esquire
Attorney for the Defendant

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SC Court of Appeals

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

I N D E X

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<u>No.</u>	<u>Description</u>	<u>Ev.</u>
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No exhibits introduced.

1 THE COURT: The next matter I have is docket number
2 2016-CP-40-05894, *Mondre Robinson vs. Owen Steel,*
3 *Incorporated.* The plaintiff is represented by Reagan
4 Singletary. Is that correct?

5 MS. SINGLETARY: Yes, Your Honor, it is.

6 THE COURT: And the defense is represented by Roopal
7 Ruparelia?

8 MS. RUPARELIA: Yes, Your Honor.

9 THE COURT: We're here on the defense's motion to
10 dismiss.

11 MS. RUPARELIA: Yes, Your Honor. Yes, may it please
12 the court? Your Honor, I'm recovering from a really bad
13 cold, so I will try to be as loud as I possibly can. I
14 lost my voice. I'm hoping that I can keep it up.

15 THE COURT: Right.

16 MS. RUPARELIA: Your Honor, this is a motion to
17 dismiss. I'm going to go through briefly the factual
18 background on this case, and I'm really just going to stick
19 the allegations of the complaint.

20 THE COURT: Yes, ma'am.

21 MS. RUPARELIA: Part of the complaint, the plaintiff
22 was employed by my client. There is a defect in the
23 complaint in the sense that the complaint alleges a lawsuit
24 against Owen Steel, Inc. My client is actually Owen Steel
25 Company, Inc., and I think it becomes important down the

1 road, but I wanted to make the court aware of that fact.

2 The plaintiff was employed by Owen Steel Company, Inc.
3 Owen Steel also employed three other gentlemen, and the
4 names of those gentlemen are listed in the complaint. And
5 the complaint alleges that on October 4, 2013, these four
6 gentlemen, including the plaintiff, were at a after -- it
7 says after-work location when plaintiff was assaulted by
8 the other three. There is no allegation and there is no
9 dispute that the incident did occur -- did not occur on
10 Owen Steel's premises and did not occur during work hours.
11 This is off-site location. I believe it's a bar.

12 We filed a motion to dismiss, Your Honor, and we
13 outlined three grounds. One is a service issue; it's an
14 inefficiency service of process. One is a workers' comp
15 exclusivity, and the third is a failure to state a claim.

16 Your Honor, we submitted a memo, and the court will
17 note that we did not address the workers' comp exclusivity
18 in the memo that we filed. And, Your Honor, I would like
19 to reserve that and not argue that today because in looking
20 at the case law over the weekend regarding workers' comp
21 exclusivity, I think that it probably -- if the court were
22 to not dismiss it on these other grounds, that we'd
23 probably need to do some factual discovery relating to the,
24 the reasons for the assault because I think you have to
25 find a nexus to employment, and so we're going to withdraw

1 the grounds of workers' comp exclusivity and proceed on the
2 service issue and also the failure to state a claim, and
3 essentially that's a duty argument, a legal duty argument.

4 Your Honor, with respect to the service issue, the
5 incident happened on October 4, 2013. The complaint was
6 filed against Owen Steel, Inc. on September 30, 2016, just
7 four days before the statute of limitations expires. As I
8 indicated, the correct name of the defendant entity is Owen
9 Steel Company, Inc. With the Secretary of State, there is
10 no entity registered that is known as Owen Steel, Inc.

11 Your Honor, the complaint was not served within the
12 statute of limitations, but because it was filed before the
13 expiration of the statute, that 120 day rule under 3(a)(2)
14 is triggered, and that 120 days would expire January 30,
15 2017. On January 19, 2017, plaintiff attempted service
16 through the defendant's registered agent, which is NCR,
17 National Corporate Research. It's the registered agent.
18 Your Honor, NCR is one of these companies that accepts
19 service for numerous other corporations. And even though
20 the affidavit of service from plaintiff's process server
21 indicates NCR was served, Your Honor, attached to our
22 motion to dismiss is an affidavit from the vice president
23 and manager of Registered Agent Service. Your Honor, it's
24 Exhibit B to our motion to dismiss. I have a copy if Your
25 Honor would like, and the -- his name is Andrew Lundgren,

1 and he indicates that they did not receive the summons and
2 complaint in this case. And so on the day that the service
3 was purportedly made, counsel emailed to me a copy of the
4 affidavit of -- actually a few days later, I believe -- an
5 affidavit of service, and we tried to talk -- the affidavit
6 of service, Your Honor, the problem is if you look at this
7 affidavit of service -- Your Honor, I have a copy here I'll
8 just hand you. It's -- Your Honor, may I approach?

9 THE COURT: Yes, ma'am. Thank you.

10 MS. RUPARELIA: The affidavit of service, Your Honor,
11 it's actually a certificate of service. It's not really an
12 affidavit of service, and -- so, we reached out to the
13 registered agent, my client did, the president of Owen
14 Steel Company, Inc., and his affidavit is also attached to
15 the motion to dismiss. The registered agent emailed my
16 client and indicated that Owen Steel, Inc. is not
17 registered in the state of South Carolina and that it
18 appears the document as it was served was not received at
19 the door because we are not the agent for Owen Steel, Inc.
20 NCR only receives service if the document has the full
21 entity name and if the entity is listed within in state
22 being served. And then he basically goes on and says:

23 If the attorney would like to re-serve the
24 document with the proper entity, then we would
25 gladly receive the service.

1 So, basically the registered agent is saying we're not
2 accepting service of this document because it did not have
3 the correct entity. It had Owen Steel, Inc. There's no
4 entity known as Owen Steel, Inc. We're not, we're not --
5 we did not receive service of this document.

6 If you look at that particular affidavit of service,
7 as I indicated, it's mostly a certificate of service and I
8 think it's deficient, Your Honor. Under Rule 4(g), the
9 affidavit of service should include a lot more information
10 than that particular affidavit of service does. Rule 4(g)
11 does specifically ask that the affidavit of service include
12 a description of the person actually served, and there
13 isn't a description in this affidavit of service.

14 I happened to go back and just pull -- and the other
15 interesting thing is, and I don't know whether this has any
16 bearing or not, but the affidavit of service is signed by a
17 person by the name of Adrienne Turner. And I looked in the
18 *Lawyers Desk Book* just because it looked like a certificate
19 of service that a law firm would draft, and I looked in the
20 *Lawyers Desk Book* and Ms. Turner appears to be a lawyer,
21 and so I'm not sure whether she had access to a proper
22 affidavit of service, but I just went and found one that is
23 done by a process server company I'm going to hand up for
24 the court, Your Honor, which does include all of the items
25 that are required by Rule 4(g). It's just a sample

1 affidavit of service that's been filed in a case in Aiken
2 County. Your Honor, may I approach?

3 THE COURT: Yes.

4 MS. RUPARELIA: And, Your Honor, you will see that
5 within the body of the affidavit of service, that sample
6 affidavit of service, it does include a description of the
7 person being served. You know, male, female, height, that
8 type of thing. So, I think we've got a situation where
9 there is no service, and I think we know why there's no
10 service: because the registered agent didn't accept
11 service.

12 Now, the affidavit of service or the -- that was
13 supplied by the plaintiff's process server says that they
14 left it with somebody and they signed some documentation
15 with the registered agent, but, Your Honor, we don't know
16 what that is. And so our position is, Your Honor, that
17 service has not been effected. In order to commence the
18 action, you have to file it and you have to -- if you don't
19 file it -- if you don't serve it within the statute of
20 limitations, you have to serve it within the 120 days, and
21 our position is, Your Honor, the service has not been
22 effected on this case.

23 The only other grounds that we moved for on our motion
24 to dismiss, Your Honor, is essentially a legal duty
25 argument. The plaintiff's complaint outlined four causes

1 of action: negligence, negligent supervision, negligent
2 hiring, negligent retention. I will note that it appears
3 the negligent hiring and the negligent supervision are
4 about the same because the negligent hiring paragraph
5 essentially says defendant's actions constitute negligent
6 supervision. So, there's not really a negligent hiring
7 cause of action, and then we just have negligence and we
8 have negligent supervision. It -- the entirety of the
9 complaint, Your Honor, appears to be a negligent
10 supervision complaint.

11 There is a test under the -- that has been outlined by
12 our appellate courts that relates to negligent hiring, and
13 that is in the James B. Kelly Trucking Company case, 377
14 S.C. 628, and it's essentially whether the employer knew or
15 should have known that its employment of a specific person
16 created an undue risk of harm to the public. And then
17 there is the negligent supervision test, Your Honor. That
18 is the *Degenhart vs. Knights of Columbia* case at 420 S.E.
19 2d 475.

20 Your Honor, the problem with both of those causes of
21 action in the plaintiff's complaint is that we have an
22 after-hours incident, and we have it off premises. The
23 negligent hiring and the negligent supervision cases that
24 are viable are cases where the incident or the injury
25 occurs either on the employer's premises or it is during

1 employer's business hours. For instance, a driver driving
2 an employer's vehicle and colliding with another vehicle.
3 Have a lot of those cases where the employee has a chattel
4 of the employer and, say, is, you know, is under the
5 influence and collides with a claimant's vehicle, and those
6 are negligent supervision cases because then you have to go
7 into and look into the driving history and should the
8 employer have looked into it and seen if there was prior
9 similar convictions of, of this similar kind of conduct.

10 Here we have these gentlemen that essentially -- and
11 the complaint basically says is that they went off premises
12 and they were after hours. The only nexus, Your Honor,
13 would be that they were wearing at the time they left the
14 defendant's facility, they were wearing the defendant's
15 required steel-toed boots that they wore at the off-site
16 location that they went to, and they got into an
17 altercation. And the question here is is there a duty on
18 the part of Owen Steel to control, supervise the activities
19 that go on after hours off site where the employees are
20 wearing the defendant's prescribed shoes.

21 There just -- I didn't see, Your Honor, anything. In
22 all of the negligent supervision cases, the chattel ends up
23 becoming a vehicle and whether -- and they inquire in terms
24 of whether the employer knew that the vehicle should have
25 been entrusted to this employee. And lot of those were

1 within business hours. There were some -- I can't recall
2 their names, but there were some after hours, but it was
3 the employer's chattel, meaning a vehicle. Those are most
4 of the cases that I found.

5 I don't know that wearing the employer's steel-toed
6 boots imposes a duty under these four causes of action upon
7 Owen Steel to supervise what was going on, and I'm trying
8 to figure out what is it that Owen Steel could have done in
9 this particular case where these folks literally got into a
10 fight away from work after hours. You can't go supervise
11 them there.

12 And so I don't believe, Your Honor, that the case law
13 provides the precedent that imposes a duty on an employer
14 to supervise these particular employees and under these
15 factual circumstances, Your Honor. And so as a result of
16 that, Your Honor, we filed this motion to dismiss.

17 I think the only other allegation in the complaint
18 that appears to impose a duty, Your Honor, is the fact that
19 a couple of those gentlemen had a criminal history. And
20 while we can get into the fact of what those criminal
21 histories were and how far removed from the date of the
22 incident and employment and all of that, I suspect for
23 today's purposes, I don't believe that the complaint
24 provides enough nexus between the criminal histories and
25 the responsibility to go supervise these employees off site

1 and after hours. And for that reason, Your Honor --
2 usually we would just ask the plaintiff to go ahead and
3 amend their complaint, but because the statute of
4 limitations has expired and we have a service issue, I'm
5 not sure that we could do that. So, I submit to the court
6 that the only appropriate ruling would be to dismiss the
7 complaint, Your Honor. Thank you, Your Honor.

8 THE COURT: Thank you.

9 Ms. Singletary.

10 MS. SINGLETARY: Yes, Your Honor. May it please the
11 court? With regard to the first ground that defense raised
12 regarding dismissal regarding the affidavit of service, as
13 you can see, Your Honor, it was personally served on the
14 registered agent for Owen Steel, which is also listed on
15 the company website as the registered agent for Owen Steel.
16 I have that here if you need it. There's nothing in the
17 registered agent's website that goes into additional
18 information. May I approach, Your Honor?

19 THE COURT: Yes.

20 MS. SINGLETARY: That goes into additional information
21 as to this is a company that accepts or rejects and accepts
22 a whole lot of different corporations and whatnot. They
23 just clearly list who's the registered agent here, and that
24 it's who was personally served on on the 19th within the
25 120 days.

1 To the extent that defense counsel raises their
2 affidavits which say to the contrary, that it wasn't served
3 at all, those would be a genuine issue of material fact.
4 That is for the factfinder because there are two competing
5 affidavits here, one that's saying yes, it's served, the
6 other saying it wasn't served. And so that is something
7 that shouldn't be -- I guess that isn't appropriate for a
8 motion to dismiss.

9 Additionally, Your Honor, I'd like to call to your
10 attention that despite that the affidavit of service that
11 they, that they were personally served on their registered
12 agent, even before then, Owen Steel had notice of the
13 complaint because their counsel who is here today and who
14 was involved in the settlement negotiations and prior to
15 filing received a copy via mail. So, they also received,
16 they received a copy within the rules and they received a
17 copy via email when it was filed, and I have that
18 correspondence for you as well.

19 THE COURT: So, you're saying not counsel that's here,
20 but you're talking about corporate counsel?

21 MS. SINGLETARY: No. Counsel that's here. May I
22 approach? I'm sorry. So to give you a timeline, they
23 received notice by email on the 30th when it was filed, and
24 they received -- because counsel for Owen Steel said that
25 she was -- or her office said that they weren't accepting

1 service, that they weren't authorized to accept service,
2 they were personally served on their registered agent on
3 the 19th. Additionally, we provided as a courtesy and at
4 the request of counsel for Owen Steel the affidavit of
5 service on the 22nd, which was still beforehand, before ---

6 THE COURT: I'm sorry. I'm trying to follow along
7 with you.

8 MS. SINGLETARY: Okay.

9 THE COURT: Okay, who said they weren't authorized to
10 accept service?

11 MS. SINGLETARY: Haynsworth, Sinkler, and Boyd. There
12 was an attorney who reached out on behalf of counsel here
13 today and said she was reaching out on behalf of counsel
14 here today and said they could not accept service on behalf
15 of Owen Steel.

16 THE COURT: And then -- and so -- and then what
17 happened after that?

18 MS. SINGLETARY: That was the 30th of September. Then
19 after that, Owen Steel was personally served on the
20 registered agent on January 19th, which was still within
21 the 120 day period. Thereafter, which was the 27th, we
22 provided Owen Steel's president and counsel a courtesy
23 email letting them know that it was served on their
24 registered agent.

25 (A PAUSE.)

1 MS. SINGLETARY: And thereafter I sent another email
2 on the 30th letting them know that the courtesy copy of the
3 affidavit of service was not attached on the 27th and that
4 I attached it on the 30th. Thereafter, I received an email
5 where the certification of service, they questioned the
6 certificate of service and whether or not -- the
7 authenticity of it and whether or not it actually happened,
8 and thereafter I provided them with all of the information
9 for the process server and information letting them know
10 that the registered agent -- the process server signed a
11 log in their office indicating that she had dropped off
12 those documents, and I have that here as well.

13 THE COURT: And signed the log in the office of ---

14 MS. SINGLETARY: Yes, ma'am.

15 THE COURT: --- NCR?

16 MS. SINGLETARY: For the registered agent's office,
17 the corporate office. So, it is plaintiff's position that
18 we did comply with the rules of civil procedure or at least
19 substantially complied with the rules of civil procedure
20 with regard to service here. They were personally served
21 on their registered agent. Even before personal service on
22 their registered agent, their attorney was notified and
23 received a copy of the complaint, and they received the
24 affidavit of service even though we're not even required to
25 give them a copy of the affidavit of service, and it was

1 filed with the court. We did all of that prior to the 120
2 day per requirement.

3 So, to the extent that they're arguing that service
4 wasn't complied with or the statute of limitations had run
5 and we never complied with service, we disagree. We think
6 that should be -- their motion should be denied as to that
7 point, especially again since there are competing
8 affidavits there. This should be an issue that should be
9 taken up probably on summary judgement or with the trier of
10 fact because there are competing issues that are material.

11 And since we have complied with service, to the extent
12 that there are some deficiencies with the complaint, Your
13 Honor, we ask that we be amend -- that we amend that
14 complaint to include the correct name of Owen Steel.

15 Your Honor, to the extent that they are arguing that
16 the causes of action are deficient, we believe that we meet
17 the elements of the cause of action. As defense counsel
18 has stated, they did use Owen Steel issued steel-toed boots
19 to stomp out or to stomp upon the plaintiff. There was no
20 -- there's nothing in the complaint that says that there
21 was a fight, but there was an attack, and they used those
22 boots to stomp at the plaintiff. There's nothing in the
23 law that say you only -- chattel is only a car as -- even
24 though there are laws that, that are currently out there
25 that say that -- that only address the issue of a car. It

1 doesn't mean that you get to discredit the fact that the
2 boots which were issued by Owen Steel can also be
3 considered chattel for the purposes of this cause of
4 action.

5 The other thing I'd like to point out is the idea of
6 notice. If they didn't have notice of the histories, I
7 know they mentioned criminal histories, but I'd like to
8 point out to the court that they were violent criminal
9 histories, but I'd like to point out to the court that they
10 were violent criminal histories. The complaint notes that
11 it was kidnapping, that it was burglary, that it was
12 pointing and shooting a firearm. So, if they were not
13 aware of such violent criminal histories before hiring,
14 they certainly should have been aware before they promoted
15 them because some of them were supervisors who were over
16 the employees of Owen Steel.

17 As to the intention, we can certainly amend that, but
18 it's important to note that there was criminal charges
19 filed against these employees and supervisors for their
20 activities. They were charged with assault and battery by
21 mob 2, I think, and there were restraining orders that they
22 were to stay away from their employees -- that they were to
23 stay away from the victim as a result of the charges.

24 It is our opinion certainly that the violent criminal
25 history connects to what actually happened to the

1 plaintiff. He was assaulted and they had previous
2 propensities, proclivities to engage in such activity,
3 crimes against others, violent crimes against others. But
4 again, Your Honor, I'm saying all this to say I do not
5 believe that this is an issue for a motion to dismiss. I
6 believe that this is something that should be addressed
7 either in summary judgement or for the factfinder. It
8 should be addressed in front of the factfinder.

9 THE COURT: Anything further?

10 MS. SINGLETARY: Not at this time.

11 THE COURT: Any response?

12 MS. RUPARELIA: Yes, Your Honor. On the issue of
13 service, Your Honor, my firm was not authorized to accept
14 service on behalf of Owen Steel, and so we let Ms.
15 Singletary know we can't accept service, for her to go
16 ahead and serve the registered agent. And, Your Honor,
17 Rule 4 only prescribes certain ways that you can serve a
18 corporation and partnership, and that's Rule 4(d)(3). Also
19 15-9-210(b) says:

20 Corporations may be served by certified
21 registered mail or certified mail return receipt
22 requested, or, or addressed to the registered
23 agent, or the office of secretary of the
24 corporation.

25 Or you can just go deliver a copy of the summons and

1 complaint to the defendant's office.

2 None of those were done. I understand and I've had
3 plenty of times where I've been in default even though, you
4 know, I've been in the picture the whole time, having
5 counsel in the picture and notifying counsel that, hey, he
6 was served this complaint and, oh, here's a courtesy -- of
7 the complaint. That's still not a legally effective way of
8 effecting service. You still have to -- actual knowledge
9 of a complaint is not the same as a legally effective
10 service of process, and you still have to serve the
11 complaint.

12 I think the, the rub we have in this case is we have a
13 process server who says I delivered it to the registered
14 agent and I -- they made me sign the log. The registered
15 agent says we wouldn't have accepted it because they've not
16 named the correct entity. And I don't think that this is
17 an issue that -- it needs to be decided by -- it's a legal
18 issue that needs to be decided by a court.

19 A solution that -- to that may be that we go take the
20 deposition of the registered agent, Your Honor. We
21 provided as much detail as possible in the affidavits of
22 the president in terms of his communications with the
23 registered agent and what they told him, and also got an
24 affidavit from the registered agent. I think it's
25 incumbent on the plaintiff to then say wait a second. We

1 have competing affidavits. I need to go depose this
2 registered agent.

3 Now, we filed this motion back in February and we're
4 into July, and really counsel has -- plaintiff has not done
5 anything to vet this dispute, and maybe the thing to do is
6 to go do limited discovery and go take the deposition of
7 the registered agent or get their -- whatever this log is
8 because there has got to be an explanation for why they
9 would admit -- for instance, for all we know, it may be a
10 log that everybody signs the minute they enter the
11 registered agent's office because that registered agent
12 accepts service for everybody, for a bunch of people. So,
13 maybe they make everybody come in and just sign a log that
14 they came in.

15 We don't know what they did. We don't know whether
16 they ever attempted to return documents because they're not
17 the registered agent. They are the registered agent but
18 they were not accepting service, and their affidavit of
19 service says that -- or the affidavit of Mr. Lundgren says
20 that they did not accept and they would not have accepted
21 because the entity was not correctly named, and there is no
22 such entity within the state of South Carolina. So, we
23 don't know what the registered agent did. We do know that
24 they're saying we did not accept service, and so I think
25 it's incumbent on the plaintiff to then go make the -- take

1 a deposition, and maybe the thing that we can do is adjourn
2 for today and come back after we've taken the deposition of
3 the registered agent.

4 Your Honor, we did the best we could in terms of
5 getting information from them. And I think that this is
6 not a dispute that -- I can't -- you know, I didn't know
7 what else to do other than get affidavits from my client
8 and from the registered agent about the service issue. So,
9 we do have a little bit of an issue there.

10 Now, as far as the duty argument, Your Honor, it's a
11 question of whether there is a duty to supervise off-site
12 employees after hours merely because they wear steel-toed
13 boots. And though this is not in the complaint, but Ms.
14 Singletary alluded to the extent to the criminal charges
15 that were brought, their criminal background was many, many
16 years prior to their employment with Owen Steel. I believe
17 the convictions for two of them were five years before they
18 even came on board with Owen Steel. So, to the -- I, I
19 would like -- not like to go, you know, beyond the four
20 corners of the complaint, but I did want the court to get a
21 full picture. So, we just have an issue of we don't
22 believe that there is a duty and, therefore, any legal
23 cause of action that can be brought against Owen Steel for
24 an off-site incident that happened after hours merely
25 because those guys were wearing the prescribed shoes for

1 Owen Steel. Thank you, Your Honor.

2 THE COURT: Ms. Ruparelia, have you discussed at all
3 with Ms. Robinson the issue about conducting limited
4 discovery?

5 MS. RUPARELIA: I have not, Your Honor.

6 THE COURT: Do you have a position, Ms. -- I'm sorry,
7 Ms. Singletary. I'm sorry. I didn't mean Robinson.

8 MS. SINGLETARY: I don't have a problem with the
9 limited discovery. The only thing is I think it's still at
10 the end of the day going to be a question of who do you
11 believe with regard to that discovery, which is still a
12 genuine issue of material fact that goes, you know, beyond,
13 beyond the motion to, motion to dismiss.

14 Counsel brought up the criminal record, records and
15 she said that they were a long time ago. They actually --
16 I have them here. They actually happened -- they were
17 convicted in 2004, and they each had, I think, five years
18 and -- on one charge, six years on another charge. So, by
19 the time the incident happened, they were working at Owen
20 Steel. So, by the time they were out of jail, it would
21 have not been years and years or, like, a decade or
22 something that happened when they were youthful offenders
23 or anything of that nature.

24 I have a copy of them here since she brought them up.
25 I can -- I know that, I know that Owen Steel has a copy

1 because I provided it already, but I can get you an
2 additional copy.

3 MS. RUPARELIA: Again, I don't think it's, it's
4 appropriate for the motion to dismiss, the 2004, and this
5 incident happened in 2013. I just think that's why -- the
6 convictions were dated that far back. And I'm not really
7 sure what the dates were, but I don't -- I think we can
8 take the complaint allegations as true is that they do
9 allege that they -- these folks did have criminal
10 histories, and that should be enough.

11 THE COURT: And so basically you are acknowledging
12 that there was a criminal history if that's what the
13 complaint indicates?

14 MS. RUPARELIA: We have to take allegations of the
15 complaint as true, yes, Your Honor.

16 THE COURT: All right. Thank you. I'll review the
17 matter and I'll get back with you.

18 MS. RUPARELIA: Thank you, ma'am.

19 MS. SINGLETARY: Thank you, Your Honor.

20 THE COURT: Well, one last question. Are you saying
21 that even as to the factual issue, that the court could not
22 make that decision after discovery on that particular issue
23 as to -- and be the factfinder if there is a conflict in
24 determining whether or not the service was proper? That's
25 a jurisdictional issue, not a -- and so I would think

1 that's something that the court could make a decision on.
2 And when you say factfinder, I took your conversation or
3 your argument to mean that only the jury could make that
4 decision.

5 MS. SINGLETARY: Yes. Yes. Yes, Your Honor.

6 THE COURT: So that's your position, that only the
7 jury can make that decision?

8 MS. SINGLETARY: Well, I just think it would extend
9 beyond a motion to dismiss. I really do. I think that
10 would be ---

11 THE COURT: Well, even if it extends beyond a motion
12 to dismiss and the discovery, limited discovery were
13 allowed, that would still be an issue for ---

14 MS. SINGLETARY: Yes, ma'am.

15 THE COURT: --- the court to determine.

16 MS. SINGLETARY: Yes, ma'am.

17 THE COURT: Because -- as to whether or not there's
18 jurisdiction over that particular -- over the company,
19 personal jurisdiction. Now, if the court doesn't have
20 personal jurisdiction, the jury doesn't get to decide
21 whether or not the court has personal jurisdiction. It's
22 still a legal issue.

23 MS. SINGLETARY: Okay. Yes, Your Honor.

24 THE COURT: I'm asking. I mean, that's ---

25 MS. SINGLETARY: I think that, I think, Your Honor, at

1 the end of the day, we will still be back in the position
2 that we are now, which is a question of who do you believe.

3 THE COURT: Sure, but are you saying that the court
4 can't make that decision?

5 MS. SINGLETARY: Well, if the court is the factfinder,
6 I would imagine that they could make that decision, but it
7 would seem like that that would be a decision that would be
8 based, based on veracity and credibility versus just law
9 alone, if that makes sense. If she's, if she's taking the
10 deposition of, of the process server and she's finding out
11 the details, the facts, and the situation, what did the
12 person look like, did you sign a log, did you actually -- I
13 think we're back where we are now. She may get a lot more
14 information as to the description of the person, but at
15 the, at the end of the day, I think that their position
16 will probably be the same, which is that it didn't happen.
17 Of course I'm speculating, but -- and then we're back in a
18 position of who do you believe, which is where we are right
19 now, so.

20 THE COURT: All right. Okay. Thank you.

21 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON
THE 10TH DAY OF JULY, 2017.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/ELIZABETH B. HARRIS, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

JUNE 23RD, 2018

THE SINGLETARY GROUP, LLC

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Facsimile: 803.753.9623

July 30, 2018

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

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SC Court of Appeals

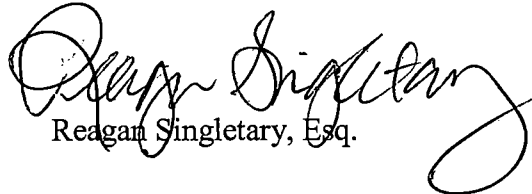
Re: Mondre Robinson y v. Owen Steel

Dear Ms. Kitchings:

Enclosed please find a copy of the transcript from the Circuit Court in the Mondre Robinson v. Owen Steel matter.

With kind regards, I am

Sincerely,



Reagan Singletary, Esq.

Enclosures
cc: Sarah P. Spruill, Esquire

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4711 Forest Drive Suite 3#113
Columbia SC 29206

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JUL 30 2018

SC Court of Appeals

Attn: Honorable Jenny Abbott Kitching S
SC Court of Appeals
Re: Mondre Robinson v. Owen Steel