

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge
Marvin H. Dukes, III, Master-In-Equity

Case No. 2011-CP-07-2546

Appellate Case No. 2011-204367

RECEIVED

MAY 27 2014

SC Court of Appeals

Joseph C. Sun,

Appellant,

v.

Olesya Matyushevsky, Citizens Opposing
Domestic Abuse, Christine Varg and Liling
Sun,

Respondents.

Appendix to the Record on Appeal

Carlock, Copeland & Stair, LLC
Jackson H. Daniel, III
Sarah E. Wetmore
40 Calhoun Street, Suite 400
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Joseph C. Sun
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Pro Se

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J. Samuel Scoville
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(843)524-3109

Womble Carlyle Sandridge & Rice, LLP
Charles J. Baker, III
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Charleston, South Carolina
(843) 720-4619

INDEX

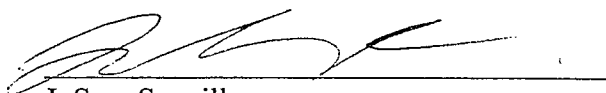
PAGE

Order Dismissing Complaint as to Defendant Liling Sun dated November 9, 2011, Case No 2011-CP-07-2546, **EXHIBIT B** ----- 271

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JUN 03 2014
SC Court of Appeals

CERTIFICATE OF COUNSEL

The undersigned certifies that the Appendix to the Record on Appeal contains all materials proposed to be included by counsel in his motion to supplement the record.


J. Sam Scoville
Harvey & Battey, PA
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Beaufort, SC 29901
(843)524-3109

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MAY 22 2014
SC Court of Appeals

STATE OF SOUTH CAROLINA)

IN THE COURT OF FAMILY COURT

COUNTY OF BEAUFORT)

14th JUDICIAL CIRCUIT

2010 DEC 20 PM 4:30 CASE NO. 2009-DR-07-0628LILING X. SUNFAMILY COURT
BEAUFORT COUNTY
BEAUFORT S.C.MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

vs.

JOSEPH C. SUN

Defendant.

Plaintiff's Attorney:

Olesya Matynuk Bar No.

Address:

P.O. Box 1775 Beaufort, SC 29901Phone: 770-1224 Fax:

E-mail:

Other

Defendant's Attorney:

Bar No.

Pro se

Address:

P.O. Box 2544, Bluffton, SC 29910Phone: 227-0963 Fax:

E-mail:

Other

☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Rule to show causeEstimated Time Needed: 1 hr.Court Reporter Needed: ☒ YES ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached☐ Form Motion/Order

I hereby move for relief of action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff / ☐ DefendantDate submitted 12/20/10

SECTION III: Motion Fee

☐ PAID - AMOUNT: \$☒ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support☐ Domestic Abuse or Abuse and Neglect☐ Indigent Status ☐ State Agency v. Indigent Party☐ Sexually Violent Predator Act ☐ Post-Conviction Relief☐ Motion for Stay in Bankruptcy☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)☐ Proposed order submitted at request of the court; or,

reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.☐ Other:

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____☐ CONTESTED - AMOUNT DUE: \$ _____

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE FAMILY COURT
14TH JUDICIAL CIRCUIT

LILING X. SUN

Plaintiff,

vs.

JOSEPH C. SUN

Defendant.

**MOTION AND AFFIDAVIT
TO PROCEED IN FORMA PAUPERIS**

Docket No. 2009-DR-07-00628

I, JOSEPH SUN, being duly sworn, state that I am the ^{Defendant}~~Plaintiff~~ and that I do not have the funds available to pay the costs of filing and service in this case. I request that the complaint be filed and service made without cost to me.

Sworn to before me this

16th day of June, 2010

Donna Paul Barnes 903
Notary Public of South Carolina

My Commission expires 16, 2013

[Signature]
Plaintiff
Defendant

2010 JUN 18 PM 12:19
FAMILY COURT
BEAUFORT COUNTY
BEAUFORT S.C.

ORDER

Certified - A True Copy

☒ Leave is *granted* to proceed in forma pauperis.

☐ Leave is *denied* to proceed in forma pauperis. This case will be dismissed without further order of the court if the filing fee and associated costs are not paid on or before

_____, 20____. (Family Court Only)

Date: June 18, 2010

Beaufort, S.C.

[Signature]
Family Court Judge

[Signature]
Clerk of Court
Beaufort County SC

NOTICE TO PLAINTIFF: The Court may assess costs against either party at hearing.

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

LILING SUN,
Plaintiff,

v.

JOSEPH SUN and AH TSAO SUN,
Defendants,

IN THE FAMILY COURT
FOURTEENTH JUDICIAL CIRCUIT
FILE NO. 09-DR-07-00628

RULE TO SHOW CAUSE

2010 DEC 21 PM 12:17
FAMILY COURT
BEAUFORT COUNTY
BEAUFORT, S.C.

NO FEE

Upon consideration of the affidavit in support of a Rule to Show Cause, a copy of which is attached hereto, and it appearing there from that the Defendants are entitled to have this Court issue a Rule to Show Cause and schedule a hearing thereon:

IT IS ORDERED, that you, LiLing Sun, Plaintiff herein, shall appear before the Family Court for the Fourteenth Judicial Circuit on the 6th day of Jan., 2011 at 10:15 am to show cause, if any you can, why you should not be required to comply with the terms and conditions of the Decree of Divorce dated October 13, 2010 and why you should not be held in contempt; and why you should not be required to pay damages and injury to the Defendants; and why you should not be required to pay the attorney fees and costs of the Defendants for the institution and prosecution of this proceeding.

AND IT IS FURTHER ORDERED that, pursuant to Rule 4 © of the South Carolina Rules of Civil Procedure, this Rule to Show Cause may be served by the Sheriff, his deputy, or any other person not less than eighteen (18) years of age, not an attorney in or a party to this action.

AND IT IS SO ORDERED.

Certified - A True Copy

Jan A. Robinson
Clerk of Court
Beaufort County SC

[Signature]
Presiding Judge
Family Court for the 14th Judicial Circuit.

12/21/10

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE FAMILY COURT
FOURTEENTH JUDICIAL CIRCUIT
FILE NO. 09-DR-07-00628

LILING SUN,
Plaintiff,

v.

JOSEPH SUN and AH TSAO SUN,
Defendants,

2010 DEC 20 PM 4:30
FAMILY COURT
BEAUFORT COUNTY
BEAUFORT, S.C.

AFFIDAVIT OF JOSEPH SUN

Personally appeared before me, Joseph C. Sun who after being duly sworn, deposes and says:

1. I am Joseph Sun, the defendant in this case.
2. That on October 13, 2010, this Honorable Court issued its Decree of Divorce in this case specifically approving a Settlement Agreement entered into by and between the Plaintiff and Defendant Ah Tsao Sun, and making that Settlement Agreement the Order of the Court.
3. In accordance with the terms and provisions of the Settlement Agreement, Page 3, Paragraph 1 in the Equitable Division of Real Property, Defendant Ah Tsao Sun agreed to pay to the Wife (Plaintiff) the sum of \$75,000.00. Pursuant to the terms of Paragraph 3, Page 3 of the Settlement Agreement, the Wife (Plaintiff) "shall have thirty (30) days from the receipt of the Seventy-five Thousand (\$75,000.00) Dollars to relocate from 18 Sixth Avenue, Bluffton, South Carolina, taking with her "personal belongings", Husband shall have the right to occupy the premises." Paragraph 4 specifically states that "Wife hereby forever releases, waives and relinquishes any and all rights or claims which she may have to any other property which she claims, could have claimed or in the future may claim to be marital property, it being that the payment of the Seventy-five Thousand (\$75,000.00) Dollars is a full and complete settlement of all issues raised or which could have been raised under the marital property act."

4. The aforesaid Settlement Agreement was signed by Ah Tsao Sun in August 2010 and by LiLing Sun in September 2010. On November 2, 2010 Plaintiff LiLing Sun was mailed an escrow check by Counsel Kenneth L. Tootle in the amount of \$75,000.00 to Olesya Matyushevsky, her attorney of record.

5. On November 4, 2010 Attorney Matyushevsky acknowledged by email that her office received the funds. Also on November 4, 2010 the Plaintiff executed the quit claim deeds as required by the Settlement Agreement.

6. On Sunday, December 5, 2010, 31 days after her receipt of the \$75,000.00 from Defendant Ah Tsao Sun, I was ready to move in and occupy the house located at 18 Sixth Avenue in Bluffton. I called the Beaufort County police dispatch (843-757-3499) to have a Bluffton Police officer to meet me near the Bluffton Park subdivision and escort me to the house. Sergeant George from the Bluffton Police Department called me at about 12 p.m. and advised me that I needed legal papers showing I was entitled to move in the house that day. I informed the officer that I would get the papers the next business day, Monday December 6, 2010.

7. At about 4 p.m. on Sunday December 5, 2010, on Bluffton Parkway and Red Cedar Street, about a mile from the aforesaid Bluffton home, I saw Plaintiff LiLing Sun drive by in her 2009 Toyota Corolla followed by a pickup truck driven by a Mexican looking man towing a U-Haul trailer full of property. After I moved in the Bluffton house, I talked to the neighbors and was informed that LiLing's 2009 Toyota and the aforesaid Pickup truck with a trailer were seen several times well into the evening hours of 7-8 p.m. on December 6, 2010.

8. Late in the afternoon of December 7, 2010, I was finally told by the Bluffton Police Department that they received a faxed letter from CODA which represented Plaintiff LiLing Sun,

informing them that LiLing had moved out that day and that I could move in. Plaintiff LiLing Sun was two days late moving out of the Bluffton house in violation of the Divorce Decree.

9. At about 7 p.m. on December 7, 2010, I called Beaufort County dispatch again and asked for police escort into the Bluffton house. I met Bluffton police officers Matthew Ferrelli and Michelle Mayers at the house and they verified with Bluffton Police Captain that I was allowed to move in. They also went inside the house and witnessed the complete chaos and disarray where everything was thrown and scattered on the floor with dirt and filth, some damages in many places including the garage and the front entrance as shown in the attached photos.

10. After several days in the house, I discovered numerous items mostly valuables were missing. I am attaching a list of property which were left in the house when I was there last in 2009, but had disappeared after I moved in on December 7, 2010. It is very difficult for me to determine all the exact lost or stolen items because almost everything in the house, except the major furniture, were moved around or covered by other items. Therefore, the attached list is only an incomplete identification of what was missing or taken by Plaintiff LiLing.

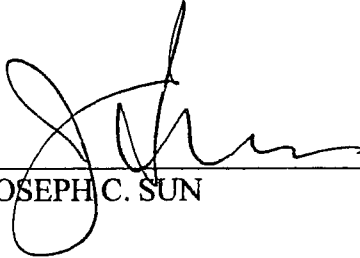
11. Pursuant to Page 3 of the Settlement Agreement, Paragraph A.3, LiLing shall have thirty (30) days from the receipt of the \$75,000.00 to move out of the Bluffton house at 18 Sixth Avenue, Bluffton, SC, and her moving date should have been December 4, 2010. The Settlement Agreement also allowed LiLing to take with her only "personal belongings." All items listed are personal property of Joseph Sun acquired after the issuance of the Pendente Lite Order on June 25, 2009 or personal gifts to Joseph Sun from his parents in Canada. Furthermore, by signing the Settlement Agreement, LiLing Sun agreed to take nothing except her "personal belongings" when she moved out of the Bluffton house. Page 3, Paragraph 4 of the Settlement Agreement

forbids LiLing Sun from taking any property which she claims to be marital.

12. Plaintiff LiLing Sun is in blatant violation of the Divorce Decree and in willful contempt of court. She should be immediately sanctioned by the court and required to pay actual damages and injury suffered by the Defendants.

13. As Plaintiff LiLing Sun has willfully, knowingly and intentionally failed to comply with the terms of the Decree of Divorce, the Defendants prays the court to hold her in contempt, fine her up to \$1,500.00 and/or incarcerate her up to one (1) year for violation of the Divorce Decree.

14. The Defendants have incurred attorney fees, costs and expenses as a result of Plaintiff LiLing Sun's willful failure to comply with this Courts Order. Defendants Joseph Sun and Ah Tsao Sun should be awarded attorney fees, costs and expenses related to the filing and prosecution of this Rule to Show Cause.



JOSEPH C. SUN

Sworn and subscribed before me
this 28th day of December, 2010.



NOTARY PUBLIC
My Commission Expires 8.22.2012

ITEMS FOUND MISSING OR TAKEN BY LILING SUN FROM BLUFFTON HOME
(discovered after Joseph Sun moved in on 12/7/2010)

- (1) All legal, personal, business and financial papers and files (over 1,000 pages) in a full size deep drawer file cabinet and closet in Joseph's office in the Bluffton home.
- (2) Original Chinese painting brought from Canada given to Joseph by his parents.
- (3) About 10 books of stamp collection of all countries in the world (over 5,000 stamps) acquired by personal collection and purchase by Joseph and his parents during their entire lives.
- (4) New men bicycle (Mongoose)
- (5) Hard Drive in Joseph's Dell Desktop Computer in his office, with about 300 GB of personal and business data, taken by LiLing and/or her accomplice. (See photo attached.)
- (6) About 10 Chinese antique items, 5 Chinese ivory statues, 3 rare crystal vases and several expensive antique items, all given to Joseph by his parents in Canada.
- (7) 3-4 leather jackets and 4-5 tailor-made suits belonging to Joseph.
- (8) Numerous tools - box of wrenches, multi-purpose meters, pumps and gages
- (9) All new kitchen utensils and electrical appliances - can opener, blender, meat grinder, mixer and juicer, etc.
- (10) 2 cameras, binocular, Wii console and accessories, game consoles and cartridges, and many books and stationery supplies.
- (11) Numerous large packs and bottles of dry Asian food items, olive oil and Ging Seng.
- (13) Items which cannot remember.

ITEMS STOLEN FROM KNOWLES ISLAND PLANTATION HOME UNDER CONSTRUCTION (committed between mid September 2010 and October 2010)

(1) Sometime in September when Joseph Sun was incarcerated at the Beaufort County Detention Center caused by what Joseph claimed to be false and fabricated charged made by LiLing and her lawyer Matyuchevski, LiLing, her legal assistant Christine Varg and her accomplice used forced entry through a back window, broke in the house located at Knowles Island Plantation owned by the Sun's family. After he was released from jail, Joseph Sun discovered the break in and burglary on September 18, 2010 and called 911. Jasper County Deputy Michelle Mayers came and made a report. (See Jasper County Report attached.)

(2) A full size Sentry Safe was destroyed by aforesaid LiLing, Christine Varg and their accomplice. (See attached photos.) All the contents inside the aforesaid safe was taken by Plaintiff LiLing Sun and Christine Varg. Some of those items are:

- a/ The original Prenuptial Agreement between LiLing and Joseph Sun.
- b/ Bank statements, check books and record of Sun's Family Trust at Regions Bank, Carolina First, TD Canada Trust and South Carolina Bank and Trust.
- c/ Passports of Joseph Sun and Abigail Sun.
- d/ Original warranty deeds of all real property at Bluffton subdivision, Knowles Island, Daufuski Island and 19 E. Industrial Park, Ridgeland and other locations.
- e/ Original titles to several cars, trucks and construction machines.
- f/ About 50 US Savings bond which Joseph Sun bought when he was working at ATT before 1987.
- g/ 3 gold chains and 1 pair gold ear rings.
- h/ Diamond ring and Appraisal Certificate given to Joseph Sun by his parents in 2005.
- j/ Several folders of personal and private papers of Joseph Sun's ex-wives.
- k/ Items which cannot remember.

(3) A large key box (about 3"X12"X18") full of keys (about 100 keys) on cars, boats, trucks and construction machines and locks for storage, including keys to Joseph's personal vehicles.

(4) Numerous legal files, personal and financial papers. (About 1,000 pages.)

LAW OFFICES OF
Kenneth L. Tootle

ATTORNEY AT LAW
P.O. Box 1321, 1015 Prince Street
Beaufort, South Carolina 29901
(843) 524-0424
Fax (843) 524-1264
Toll Free: (866) 468-2904

November 2, 2010

Olesya Matyushevsky
Post Office Box 1775
Beaufort, South Carolina 29901

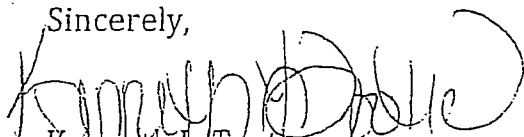
Re: Sun v. Sun

Dear Olesya,

Please find enclosed my escrow check in the amount of \$75,000.00 payable to your client in accordance with the terms of the Final Order. I have also enclosed 2 quit claim deeds for your client to execute. Please hold these deeds in trust until the title to the vehicle is received in my office.

If you have any questions, please contact my office.

Sincerely,


Kenneth L. Tootle

KENNETH L. TOOTLE
ATTORNEY AT LAW
TRUST ACCOUNT
P O BOX 1321 524-0424
BEAUFORT, SC 29901

8440

67-776/532
BRANCH 44256DATE Nov. 2, 2010PAY
TO THE
ORDER OFLiking SunSeventy five thousand and NO/100 \$ 75,000.00

DOLLARS



WACHOVIA
Wachovia Bank, N.A.
wachovia.com

Security
Features
listed on
Back.FOR Sun V. Sun

⑈008440⑈ ⑆053207766⑆ 2007500429629⑈

MP

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK / TENIR LE DOCUMENT SOUS LA LUMIÈRE POUR VOIR LE FILIGRANE

BMO  **Bank of Montreal • Banque de Montréal** **60144999 3** 2-28/710

Draft / Traite

Pay to the order of
Payez à l'ordre de

KENNETH L. TOOTLE

DATE

2010 10 04

Y/A M/M D/J

\$ USD75,000.00

75000000

To / à

HARRIS.
Harris N.A.
Chicago, Illinois, USA

Ro = cover order 04/13/2010
AH TSAO SUN FOR LILING SUN
for Bank of Montreal / pour la Banque de Montréal: Montreal, Canada / Montréal, Canada

Purchaser's Name / Nom de l'acheteur

901-100 SCOTT ST. DR. SCARBOROUGH
ON M1S 5W5
SETTLEMENT

Purchaser's Address / Adresse de l'acheteur

/ 100 US Dollars US



Securities
Options en
Bourse

Options sur les
titres de
Bourse

Signing Officer / Signataire

MP

Signing Officer / Signataire

MP

60144999 071000288

190 350 911

MICHELLE L. FLUDD

From: "attorney" <attorney@codabft.com>
To: "MICHELLE L. FLUDD" <tootle_title@hargray.com>
Sent: Thursday, November 04, 2010 1:25 PM
Subject: RE: sun v. sun

Michelle,

I've received the check and quit claim deeds. Thanks you!

Olesya Matyushevsky --- *Staff Attorney*

Citizens Opposed to Domestic Abuse (CODA)
P.O. Box 1775
Beaufort, South Carolina 29901-1775
843.770.1074.ext.223
843.770.1084 - fax

From: MICHELLE L. FLUDD [mailto:tootle_title@hargray.com]
Sent: Thursday, November 04, 2010 10:16 AM
To: attorney
Subject: Re: sun v. sun

you should have it today. please email me once you get it to confirm. I put it in the mail day before yesterday.

Michelle L. Smith
Paralegal for
Kenneth L. Tootle
Richard D. Peacock
(843) 524-0424
(843) 524-1264

This message is intended for the individual or entity to which it is addressed and may contain information that is privileged and/or confidential. If you are not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is prohibited and you are requested to please notify us immediately or copying of this communication is prohibited and you are requested to please notify us immediately by telephone and delete this message.

----- Original Message -----

From: attorney
To: MICHELLE L. FLUDD
Cc: Paralegal
Sent: Thursday, November 04, 2010 9:50 AM
Subject: RE: sun v. sun

No our office did not receive the funds in this matter.

Olesya Matyushevsky ---- *Staff Attorney*

KENNETH L. TOOTLE
 ATTORNEY AT LAW
 TRUST ACCOUNT
 P.O. BOX 13071 JACKSONVILLE, FL 32211

PAY TO THE ORDER OF Liking Sun

\$ 75,000.00
Seventy five thousand and 00/100 DOLLARS

DATE Nov 2, 2010

WACHOVIA
 Wachovia Bank, N.A.
 www.wachovia.com

MICR LINE: ⑈008440⑈ ⑈053207766⑈ 2007500129629⑈

REF#1154682580 PAID 11/09 75000.00

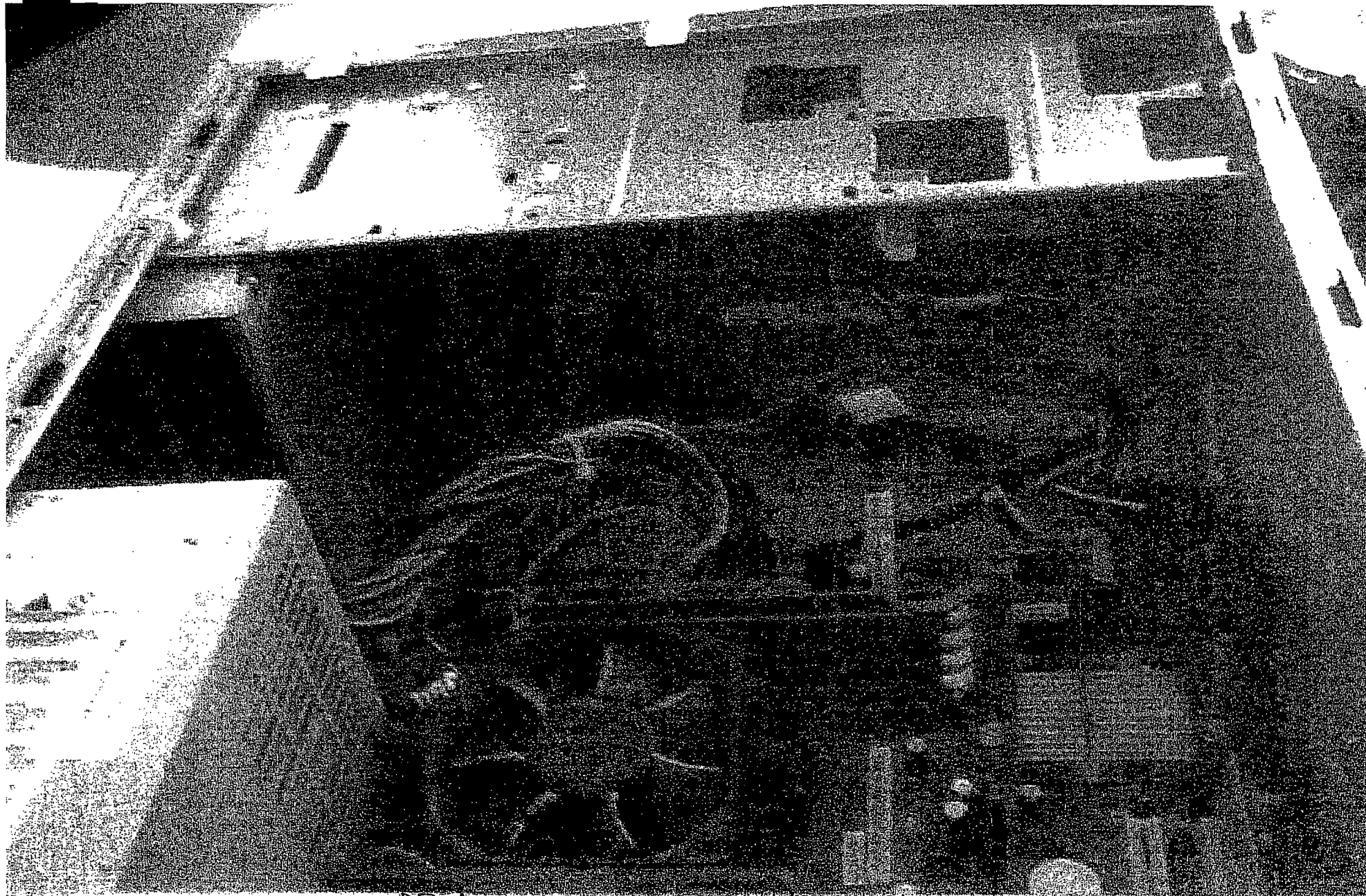
LOVE SEAT AND END TABLES REMOVED







ENTRANCE FULL OF DIRT



DESKTOP COMPUTER HARD DRIVE REMOVED



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

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Joseph C. Sun,

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Olesya Matyushevsky, Citizens Opposing
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RECEIVED

MAY 27 2014

SC Court of Appeals

Respondents.

Proof of Service

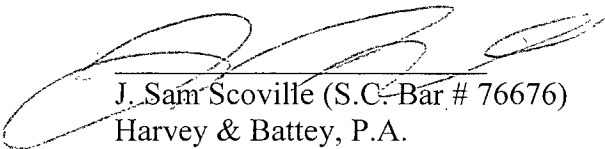
I certify that I have served Respondent Liling Sun's Motion to Supplement Record on Appeal, Appendix to the Record and Final Brief upon the parties below by depositing a copy of it in the United States Mail, postage prepaid, on May , 2014, addressed as follows:

Joseph C. Sun
18 Sixth Avenue
Bluffton, SC 29910
Appellant, pro se

Charles J. Baker, III, Esq.
P.O. Box 999
Charleston, SC 29402
Attorney for Defendants
Matyushevsky, Citizens
Opposing Domestic Abuse,
and Varg

Jackson H. Daniel, III, Esq.
40 Calhoun Street, Suite 400
Charleston, SC 29401
Attorney for Defendants
Matyushevsky, Citizens
Opposing Domestic Abuse,
and Varg

Signature Page to Follow



J. Sam Scoville (S.C. Bar # 76676)

Harvey & Battey, P.A.

P.O. Drawer 1107

Beaufort, SC 29901

(843)-524-3109

Attorney for Respondent

Liling Sun