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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Circuit Court

The Honorable R. Lawton McIntosh, Circuit Court Judge

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Appellate Case No. 2018-001444

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RECEIVED  
MAR 14 2019  
SC Court of Appeals

Encore Technology Group, LLC.....Respondent/Appellant,

v.

Keone Trask and Clear Touch Interactive, Inc.  
f/k/a Clear Touch Interactive, LLC.....Appellants/Respondents

AND

Clear Touch Interactive, Inc. f/ka Clear Touch  
Interactive, LLC.....Appellants/Respondents

v.

Encore Technology Group, LLC.....Respondent/Appellant.

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DESIGNATION OF MATTERS TO BE  
INCLUDED IN THE RECORD ON APPEAL

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Appellants/Respondents propose the following to be included in the Record on Appeal:

**Encore Technology Group, LLC v Trask and Clear Touch Interactive, Inc.**

**Order(s)**

1. Final Order and Judgment 4.2.18
2. Form 4 Order Denying Def. Motion(s) to Reconsider and Granting Plf. Motion for Receiver 6.13.18
3. Order Denying Motion to Reconsider 7.23.18

**Pleadings**

4. Complaint 9.18.15

5. Clear Touch Answer 11.13.15

6. Trask Answer 11.13.15

### **Transcripts**

7. Trial Transcript 9.25.17 – 9.29.17

- a. 109-25
- b. 131
- c. 117-18
- d. 146-47
- e. 152
- f. 155
- g. 164-66
- h. 180-81
- i. 184
- j. 193-95
- k. 234-40
- l. 343-48
- m. 387-89
- n. 392-93
- o. 396-400
- p. 412-15
- q. 422
- r. 450-51
- s. 476
- t. 482-590
- u. 617-32
- v. 650-60
- w. 720-35
- x. 764-69
- y. 787-89
- z. 802-04
- aa. 855

- bb. 918-32
  - cc. 929-32
  - dd. 938-47
  - ee. 947-58
  - ff. 987-88
  - gg. 1075-1241
8. Transcript Hearing on Post-Trial Motions 11.17.17
  9. Transcript Hearing on Def. Mot. Reconsider and Plf. Appointment of Receiver 6.12.18
  10. Transcript Hearing on Multiple Motions Feb. 7, 2019

## **Exhibits**

### ***Defendants' Trial Exhibits***

11. Def. Exh 1 – 4.5.14 Keone's Opportunities
12. Def. Exh 2 – 4.18.14 Email re Keone's Pipeline
13. Def. Exh 3 – 4.23.14 Email re Keone
14. Def. Exh. 4 – 4.29.14 Email Newnam to Masters and Powell re Keone
15. Def. Exh. 5 – 4.29.14 Email Newnam Announcing Keone Separation
16. Def. Exh. 6 – 10.31.14 Email Newnam to Trask re CTI
17. Def. Exh. 16 – 9.11.15 Email with and re Termination Reseller Letter
18. Def. Exh. 17 – 9.3.14 Email with and re Modified Reseller Agreement
19. Def. Exh. 18 – CTI P&L 2013
20. Def. Exh. 19 – CTI P&L 2014

### ***Plaintiff Trial Exhibits***

21. Plf. Exhibit 2 – 2.14.13 Non-Disclosure and Non-Solicitation Agreement between Encore and Keone Trask
22. Plf. Exhibit 4 – 1.15.14 Email Introducing Amy Andrews
23. Plf. Exhibit 5 – Interactive Panel Comparison Spreadsheet
24. Plf. Exhibit 6 – Severance Agreement
25. Plf. Exhibit 7- Encore P&L Feb. 2013 – April 2014
26. Plf. Exh. 8 – 9.10.15 Termination of Reseller Agreement
27. Plf. Exhibit 9 – Clear Touch Sales by Customer Feb. 13, 2013 – Oct. 10, 2015

28. Plf. Exh. 10 – Summary of Damages (original)
29. Plf. Exhibit 10E – Calculation of Lost Clear Touch Business Opportunity
30. Plf. Exhibit 10G – Wages and Compensation Paid by Encore to Trask
31. Plf. Exhibit 10H – Summary of Damages (updated)
32. Plf. Exhibit 10I – Wages
33. Plf. Exhibit 11 – CTI, LLC Corp. Establishment Docs filed with NC SOS 9.26.12
34. Plf. Exh. 12 – CTI, LLC list Managing Members 10.4.12
35. Plf. Exh. 13 – Job Offer Trask to Gallant 12.19.14
36. Plf. Exh. 14 – CTI, LLC list Managing Member – Kathy Cruse 4.11.13
37. Plf. Exh. 15 – NDA Higginbotham 4.28.14
38. Plf. Exh. 16 – CTI, LLC's Articles of Conversion 1.16.14
39. Plf. Exh. 32 – NDA Gallant 4.25.14
40. Plf. Exh. 36 – 9.19.12 Email Trask to Mundrake (TSItouch)
41. Plf. Exh. 37 – 9.25.12 Email Mundrake to Trask
42. Plf. Exh. 38 – 11.20.12 Email Trask to Mundrake re Est. CTI
43. Plf. Exh. 51 – CTI Sales by Customer Feb. 13, 2013 – October 10, 2014
44. Plf. Exh. 52 – CTI Sales by Customer Feb. 13, 2013 – April 25, 2015
45. Plf. Exhibit 53 – 5.14.14 Email(s) Trask and TSItouch
46. Plf. Exh 58 – 12.17.13 Cruse to Encore re Leon County
47. Plf. Exh. 68 – CTI Investor Memo
48. Plf. Exh. 69 – CatchFire Financial Document

#### **Other Materials and Documents**

##### ***Misc.***

49. Executed Verdict Form
50. Stipulations of Fact and Admissions of Liability 9.18.17

##### ***Motions***

51. Defs Motion in Limine 9.13.17
52. Defs Memo in Support of Motions in Limine 9.20.17
53. Defendants' Post-Trial Motions 10.9.17
54. Plaintiff's Motion for Judgment w/ Affidavits 10.9.17

55. Defendants' Response and Opposition to Plf's Motion for Judgment 11.15.17
56. Reply Affidavit of English 11.15.17
57. Defendants' Supplemental Post Trial Filings 3.5.18
58. Defendants' Motion to Reconsider 4.12.18

***Records Related to Receiver Order***

**Order(s)**

1. Order Appointing Receiver 7.23.18
2. Order Staying Receiver 3.8.19

**Transcript(s)**

3. Transcript of Hearing re Motion for Appointment of Receiver 6.12.18

**Other Documents and Materials**

***Motions***

4. Plf Motion for Appointment of Receiver 5.21.18
5. Def. Motion to Relieve Receiver 10.22.18
6. Def. Motion to Alter or Amend Receiver Order 10.22.18

***Misc.***

7. Ltr. and Exh. A – Def. Objections to and Redline of Proposed Order Appointing Receiver 8.1.18

**Clear Touch Interactive, Inc. v Encore Technology Group, LLC**

**Orders**

1. Form 4 Order 7.31.18
2. Amended Form 4 Order 8.1.18
3. Order Dismissing Case 8.10.18
4. Order Denying Motion to Reconsider 9.7.18

**Pleadings**

5. Clear Touch v Encore Complaint 9.12.17
6. Clear Touch v Encore Amended Complaint 9.13.17
7. Encore Answer to Amended Complaint & Counterclaims 11.16.17
8. Clear Touch Answer to Counterclaims 12.21.17

**Transcript(s)**

9. Transcript Hearing on Parties' Dispositive Motions 7.30.18

**Other Documents and Materials*****Motions***

10. Clear Touch and Trask Second Motion for Continuance of Trial Date 6.6.17
11. Encore Response to Second Motion for Continuance of Trial Date 6.7.17
12. Encore Motion to Dismiss 3.21.18
13. Clear Touch Motion to Dismiss Encore Breach of Contract and Breach of Contract  
Accompanied by Fraud Counterclaims 3.27.18
14. Clear Touch Motion for Partial Summary Judgment on Counterclaim 3.27.18
15. Encore Motion for Summary Judgment 7.20.18
16. Clear Touch Memo in Opposition to Encore's Motion for Summary Judgment 7.29.18
17. Clear Touch Memo in Support of Motion for Partial Summary Judgment 7.29.18
18. Clear Touch Motion to Reconsider Dismissal 8.20.18

***Misc.***

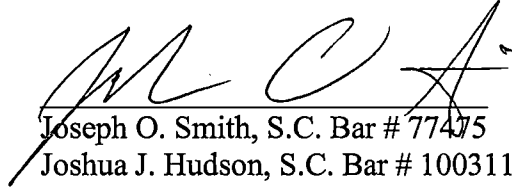
19. Email(s) re Proposed Order where Encore says ruling implied
20. 7.31.18 Email Smith to Court re Form 4 Order
21. 8.2.18 Email English to Smith re Rulings Implied
22. 8.2.18 Email Smith to Court re Proposed Order w/ Redline Order
23. 8.2.18 English Email to Court re Rulings Implied

I certify that this designation contains no matter which is irrelevant to this appeal.

(signature page to follow)

Respectfully Submitted,

**ROE CASSIDY COATES & PRICE, P.A.**

A handwritten signature in black ink, appearing to read 'J O S', is written over a horizontal line. The signature is positioned above the printed name of Joseph O. Smith.

Joseph O. Smith, S.C. Bar # 77475

Joshua J. Hudson, S.C. Bar # 100311

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*Attorneys for Appellants/Respondents*

*Clear Touch Interactive, Inc. and Keone Trask*

March 13, 2019

Greenville, South Carolina

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**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

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**APPEAL FROM GREENVILLE COUNTY  
Circuit Court**

**The Honorable R. Lawton McIntosh, Circuit Court Judge**

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**Appellate Case No. 2018-001444**

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AND

Clear Touch Interactive, Inc. f/ka Clear Touch  
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**PROOF OF SERVICE**

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I certify that I have served the Appellants/Respondents' Initial Brief and Designation of Matter on the Respondent/Appellant Encore Technology Group, LLC by depositing a copy of it in the United States Mail, postage prepaid, on March 13, 2019, addressed to counsel of record as follows.

Gregory J. English, Esq.  
Rita Bolt Barker, Esq.  
WYCHE, P.A.  
Post Office Box 728  
Greenville, SC, 29602  
Attorneys for Respondent/Appellant

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MAR 14 2019

SC Court of Appeals

(Signature page to follow)

**ROE CASSIDY COATES & PRICE, P.A.**



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March 13, 2019  
Greenville, South Carolina



**Roe Cassidy  
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March 13, 2019

**VIA FEDEX**

Honorable Jenny Abbott Kitchings  
Clerk of Court  
S.C. Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

**Re: *Encore Technology Group LLC v. Keone Trask and Clear Touch Interactive, Inc.,  
f/k/a Clear Touch Interactive, LLC***  
**Appellate Case No. 2018-001444**  
**RCCP No. 2626.0001A**

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MAR 14 2019

Dear Madam Clerk:

**SC Court of Appeals**

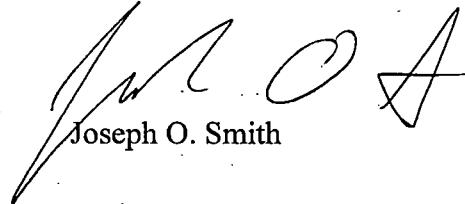
Enclosed please find the original and one copy of the Initial Brief of Appellants/Respondents and Designation of Matter to be included in Record on Appeal. Due to the Court's consolidation of three separate appeals, we filed a Motion for Extension of Time and Length to File Initial Brief on January 8, 2019. The Court entered an Order on January 14, 2019. stating Appellants/Respondents must file a proposed brief and designation of matter before it would consider the motion to exceed the page limit. Enclosed is the proposed brief.

Please file both in your office and return the filed copy to me in the envelope provided herein. By copy of this letter, we are serving counsel for Respondents/Appellants with a copy of same.

With highest regards, I am

Sincerely,

ROE CASSIDY COATES & PRICE PA



Joseph O. Smith

JOS/ads

cc: Gregory English, Esq.  
Rita Barker, Esq.

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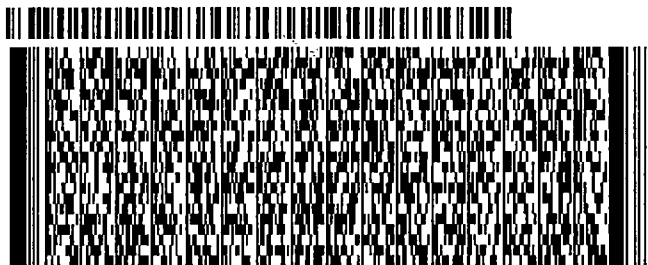
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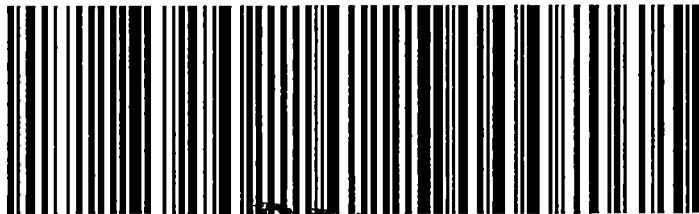


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SC Court of Appeals

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