

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

Appellate Case No.: 2017-002469
Case No.: 2016-CP-40-0378

Neal Truslow,

Respondent,

v.

Stephen Bretzinger, Lindsey
Holsinger, and Rikard &
Protopapas,

Defendants

Of Whom Stephen Bretzinger
and Lindsey Holsinger are the
Appellants.

RECEIVED
AUG 30 2018
SC Court of Appeals

RECORD ON APPEAL – VOLUME II

Alexandre N. MacClenahan
The MacClenahan Law Firm, LLC
223 W. Stone Avenue
Greenville, South Carolina 29609
864-382-3340/FAX:864-751-2963
alex@macclenahanlaw.com
Attorney for Appellants Stephen
Bretzinger and Lindsey Holsinger

Harvey M. Watson III
Desa Ballard
Ballard & Watson
Post-Office Box 6338
West Columbia, South Carolina 29171
Attorneys for Respondent Neal Truslow

Plaintiff's Request to Admit served on January 5, 2017

REQUEST TO ADMIT

Admit or deny the following:

- 1

3. These defendants have avoided service in this matter.
4. These defendants were aware that service by publication had been authorized by this Court prior to October 8, 2016.
5. These defendants had actual notice of this litigation no later than October 8, 2016.
6. These defendants had received a copy of the complaint in this matter no later than November 1, 2016.
7. These defendants intend to delay these proceedings.
8. These defendants lack a defense to this action.
9. These defendants have received all settlement funds recovered by Plaintiff on their behalf.
10. These defendants are attempting to avoid paying an attorney fee for work that performed for them in connection with the collection of a judgment.

Desa Ballard

Desa Ballard
Ballard & Watson, Attorneys at Law
Post Office Box 6338
West Columbia, South Carolina 29171
Telephone 803.796.9299
Facsimile 803.796.1066
Email: desab@desaballard.com

January 5, 2017

ATTORNEY FOR PLAINTIFF

Beth Cogan

From: Peter Protopapas <pdp@rplegalgroup.com>
Sent: Monday, August 22, 2016 1:56 PM
To: Desa Ballard
Subject: Bretzingers

It was good talking with you and I want to repeat that I am not allowed to accept service on the Bretzingers.

Peter

Peter D. Protopapas
Rikard & Protopapas, LLC
1329 Blanding Street
Columbia, SC 29201
T: 803-978-6111
F: 803-978-6112

Plaintiff's Request for Production of Documents served on January 5, 2017

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow

Plaintiff

vs.

Stephen Bretzinger,
Lindsey Holsinger, and
Rikard & Protopapas, LLC

Defendants

FIFTH JUDICIAL CIRCUIT

IN THE COURT OF COMMON PLEAS

Case No.: 2016-CP-40-3728

**PLAINTIFF'S REQUEST FOR
PRODUCTION**

Reserving all rights under the default judgment which has already been entered in this action, the Plaintiff herein submits the following requests for production to the Defendants Stephen Bretzinger and Lindsey Holsinger. Plaintiff incorporates the provisions of Rule 34, SCRPC, and the definitions and instructions contained therein. In addition, Plaintiff submits the following:

DEFINITIONS

As used herein, except when the context requires otherwise, the following definitions shall apply.

1. "You", "your", or "Defendant" or "these defendants" shall mean one or both Stephen Bretzinger and/or Lindsey Holsinger, as well as all persons acting or purporting to act on behalf of either of them, including lawyers, whether employed directly or indirectly, as an independent contractor, volunteer. For any purpose relevant to these Interrogatories it shall also include attorneys, accountants, agents, or family members including but not limited to Peter Protopapas.

2. "Person" shall include any individual, partnership, firm, association, corporation, or any other business, governmental, or legal entity.

3. "Document" or documents" shall mean all correspondence, records, reports, indices, summaries, compilations, extracts, memoranda, forms, graphs, technical data or charts, electronic data, photographs, films, videotapes, sound recordings, invoices, specifications, laboratory reports, protocols, manuals, brochures, pamphlets, advertisements, promotional materials, instructions, literature, electronic or computer data bases or printouts, sketches, package

inserts, labels, press releases, or any other graphic, visual, written, or recorded electronically or otherwise, of any kind whatsoever, within the knowledge, possession, custody, of any kind whatsoever, within the knowledge, possession, custody, control, or subject to the control of the defendants or their attorneys whether such document is stored in word processing files, calendaring program data, e-mails, hard drives, mobile electronic devices including mobile telephones, computer discs, portable drives, hard drives in copier machines, hard drives in fax machines and other computer logs or images of items that might constitute “documents” within the definition set forth herein. This includes materials of any kind stored on portable electronic devices that are not presently in the possession of these defendants.

5. “Computer” shall include, but is not limited to, microcomputers (also known as personal computers or desktops), laptop computers, portable computers, personal digital assistants, Smart phones, tablets, minicomputers and mainframe computers.

6. “Electronic data” means all information stored in a digital format. Electronic data includes, but is not limited to, electronic mail messages and attachments, contacts, journal entries, calendar entries, word processing documents, spreadsheets, databases including all records and fields and structural information, charts, graphs, and any and all miscellaneous files responsive to the following requests. The responding party is expected to search for any and all information stored on hard disks, floppy disks, CDs, DVDs, USB devices, Personal Digital Assistants and Smart Phones (such as iPhones, Androids, Microsoft Surface, IPADs, Palm Pilots, Blackberrys and Treos), tablets, and in any other vehicle for digital data storage and/or transmittal. The term electronic data also includes the file, folder tabs and/or containers and labels appended to, or associated with, any physical storage device associated with the information described above.

7. “Evidentiary Image” means a true bit-stream copy of the data requested. “Deleted File” means any electronic data file that has been erased or deleted from the electronic media on which it resided.

8. “Prior litigation” means a matter entitled Stephen Bretzinger and Lindsey Holsinger v. Crestwood Homes, LLC et al. Case No. 0:13-cv-01771-JMC that was pending and later resolved in the United States District Court for the District of South Carolina and the distribution of settlement proceeds from that action.

INSTRUCTIONS

A. All paper copies, documents and electronic data related to prior litigation of a matter entitled Stephen Bretzinger and Lindsey Holsinger v. Crestwood Homes, LLC et al. Case No. 0:13-cv-01771-JMC and any settlement proceeds received from that litigation, including any correspondence through the present date must be preserved. Please insure that all current back-up tapes, disks or drives are not rewritten and no mobile phones used by you are

discarded or altered. Stop any rotation, alteration and/or destruction of electronic media that may result in the alteration or loss of any electronic data relating to the issues in this lawsuit. Do not alter and/or erase active, deleted files or file fragments on any electronic media that may have any relation to this matter. Do not conduct any maintenance such as defragging, reformatting or upgrading any hard drives that may contain data relevant to this litigation. Do not dispose of any electronic media storage devices replaced due to failure and/or upgrade that may contain electronic data having any relation to this matter.

- B. If all of the information furnished in response to all or any part of a Request to Produce is not within your personal custody or control, or within the custody or control of your present attorneys, identify each person or entity who is known to or believed to have custody or control of any information or document requested as well any person or entity to whom any part of the information has previously been furnished or provided.
- C. If objections are entered to all or any part of a request to produce, state the specific grounds for the objection. Answer the request to produce to the extent to which there is no objection.
- D. If a privilege is asserted concerning all or any part of the information requested by a request to produce, identify the information or document for which privilege is asserted and state the specific grounds for each such privilege asserted.
- E. Electronically-stored information should be produced on digital media in PDF format or a format that is reasonably usable.
- F. If electronically-stored information cannot be produced in PDF format or a format that is reasonably usable, produce the electronically-stored on digital media along with data with a limited use copy of the necessary software to enable Petitioner to view it.
- G. The following requests to produce shall be deemed to continue from the time of service until the time of final conclusion of the case so that information sought which comes your attention or knowledge or the attention or knowledge of your representative, or attorney, after Answers to Interrogatories have been submitted, shall be transmitted to the undersigned.
- H. Regardless of the noun, pronoun or other designation, if any, used in an request to produce to describe the person or entity to whom it is directed or about whom it is concerned, answers to each of the requests to produce shall include all responsive information known or available about such person or entity.

Request No. 1: Any and all of your bank statements, deposit slips, electronic copies of checks or other instruments reflecting receipt by you of any settlement proceeds from the prior litigation including but not limited to any funds paid to or received by Rikard and Protopapas,, LLC in the amount of \$100,000.00 from Builders Insurance Group on behalf of insured Scenic

Homes, in check number 0001166045. A copy of this check is attached hereto and incorporated herein as Exhibit A to these Request to Produce.

Request No. 2: Any and all of your bank statements, deposit slips, checks, electronic copies, debit card entries, credit card receipts or statements or other documents or instruments reflecting the disbursement by you or on your behalf of any of the funds referred to in Request No. 1.

Request No. 3: Any and all correspondence exchanged by and between you and/or the plaintiff and/or any officer or agent of Rikard and Protopapas LLC related to this matter or the prior litigation, reserving of course any documents which are privileged but as to those produce a privilege log.

Request No. 4: Any and all copies of the complaint in this action received by you from any source including any envelope in which the copy was received or email to which the complaint was attached.

Plaintiff reserves the right to submit additional request production of documents or interrogatories after receipt of complete responses to these requests to produce. This reservation of rights does not limit the discovery which may be undertaken by the Plaintiff in this action.

Desa Ballard

Desa Ballard

Ballard & Watson
Post Office Box 6338
West Columbia, South Carolina 29171
Telephone 803.796.9299
Facsimile 803.796.1066
Email: desab@desaballard.com

ATTORNEYS FOR PLAINTIFF

January 5, 2017

THIS CHECK IS VOID WITHOUT A COLORED BACKGROUND. THIS CHECK HAS AN ARTIFICIAL WATERMARK ON THE BACK.



Builders Insurance Group

BUILDERS INSURANCE
(A MUTUAL CAPTIVE CO.) - Claims Account
P.O. Box 723099
Atlanta, GA 31139-0099

Date: 05/20/2015

NO. 0001166045

64-79(6)1

POLICY NUMBER	CLAIM NUMBER	DATE OF LOSS	CLAIMANT	AMOUNT
GLP 0000571 04	000000077899	08/04/2008	Stephen Bretzinger and Lindsey Holsinger	***\$100,000.00**

PAY TO: Rikard and Protopapas LLC AND Stephen Bretzinger and Lindsey Holsinger

PAY: One Hundred Thousand and 00/100 Dollars*****

Mail To:

Builders - 34 Sub Trust
Rikard and Protopapas LLC
1329 Blanding Street
Columbia SC 29201

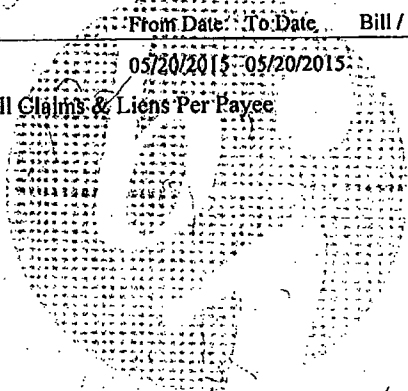
[Signature]

Please Cash or Deposit the above check as soon as possible and retain this portion for your records

PAID BY
BUILDERS INSURANCE
P. O. Box 723099
Atlanta, GA 31139

POLICY NUMBER	LOSS DATE	INSURED	
GLP 0000571 04	08/04/2008	SCENIC HOMES INC	
CLAIM NUMBER	CHECK NUMBER	CHECK DATE	ADJUSTER
000000077899		05/20/2015	Mark Jones

Description	From Date	To Date	Bill / Invoice Number	Patient Account #	Invoice Amt	Amount
First and Final	05/20/2015	05/20/2015			\$0.00	\$100,000.00
Per Release of All Claims & Liens Per Payee						



[Faint watermark text: Builders Insurance Group]

By endorsement of this check, the payee, under penalty of fine and/or imprisonment, certifies entitlement to this payment for benefits or services, circumstances affecting such entitlement have not changed, and no false statements or representations have been made in support of the claim for payment. False representations could result in civil and criminal penalties.

Exhibit A to Request to Produce January 5, 2017

Defendants Stephen Bretzinger and Lindsey Holsinger's Responses to Plaintiff's
Requests to Admit served on February 1, 2017

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
Neal Truslow,	)	Case No.: 2016-CP-40-03728
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANTS STEPHEN
	)	BRETZINGER and LINDSEY
Stephen Bretzinger, Lindsey Holsinger,	)	HOLSINGER'S RESPONSES to
and Rikard & Protopapas, LLC.	)	PLAINTIFF'S REQUESTS TO
	)	ADMIT
Defendants.	)	

Pursuant to Rule 36 of the SCRCP, Defendants respond to Plaintiff's Requests to Admit as follows:

1. The attached email dated August 22, 2016 accurately represent instructions given by these defendants, or either of them, to Peter Protopapas sometime prior to August 22, 2016.

RESPONSE: Denied. The attached e-mail is a communication between Peter Protopapas and Plaintiff's counsel, it contains no instructions from Defendants. Defendants admit that since they did not retain Mr. Protopapas to represent them in this action, he was not allowed to accept service on their behalf. Unless expressly admitted herein, Defendants deny the remaining allegations of this Request to Admit.

2. These defendants were aware no later than August 22, 2016 that the lawsuit had been filed and that service upon them was being attempted.

RESPONSE: Defendants cannot recall a specific date in which they became aware that a lawsuit had been filed and that service was being attempted. Defendants admit that they were aware no later than October 24, 2016 that a lawsuit had been filed and service was being attempted. Unless expressly admitted herein, Defendants deny the remaining allegations of this Request to Admit

3. These defendants have avoided service in this matter.

RESPONSE: Denied.

4. These defendants were aware that service by publication had been authorized by this Court prior to October 8, 2016.

RESPONSE: Defendants cannot recall a specific date in which they became aware of the Court's Order for Publication. Defendants admit that they were aware no later than October 24, 2016 that service by publication had been authorized by this Court. Unless expressly admitted herein, Defendants deny the remaining allegations of this Request to Admit.

5. These defendants had actual notice of this litigation no later than November 1, 2016.

RESPONSE: The Defendants admit that they had notice of the litigation no later than November 1, 2016.

6. These defendants had received a copy of the complaint in this matter no later than November 1, 2016.

RESPONSE: Defendants admit that they received a copy of the complaint no later than November 1, 2016.

7. These defendants intend to delay these proceedings.

RESPONSE: Denied.

8. These defendants lack a defense to this action.

RESPONSE: Denied.

9. These defendants have received settlement funds recovered by Plaintiff on their behalf.

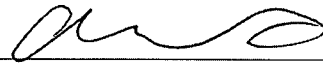
RESPONSE: Defendants admit they received a portion of settlement funds in the action filed in the U.S. District Court for the District of South Carolina, captioned *Bretzinger and Holsinger v. Crestwood Homes, LLC et al.*, Case No.: 0:13-CV-2771-JMC. Unless expressly admitted herein, Defendants deny the remaining allegations of this Request to Admit.

10. These defendants are attempting to avoid paying an attorney fee for work that performed for them in connection with the collection of a judgment.

RESPONSE: Denied.

This the 1st day of February, 2017.

THE MACCLENAHAN LAW FIRM, LLC



Alexandre N. MacClenahan

SC Bar # 72507

223 W. Stone Avenue

Greenville, SC 29609

864-382-3340/FAX 864-331-3058

alex@macclenahanlaw.com

Attorney for Defendants

Stephen Bretzinger and

Lindsey Holsinger

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow,

Plaintiff,

vs.

Stephen Bretzinger, Lindsey Holsinger,
and Rikard & Protopapas, LLC.

Defendants.

FIFTH JUDICIAL CIRCUIT

IN THE COURT OF COMMON PLEAS

Case No.: 2016-CP-40-03728

Certificate of Service

The undersigned attorney for Defendants Stephen Bretzinger and Lindsey Holsinger hereby certifies that on February 1, 2017 he served a copy of the forgoing **Defendant Stephen Bretzinger and Lindsey Holsinger's Responses to Plaintiff's Requests for Admission** via United States Mail, sufficient postage prepaid, addressed to all counsel of record as follows:

Desa Ballard
Ballard & Watson
Post Office Box 6338
West Columbia, South Carolina 29171
desab@desaballard.com

Peter Protopapas
Rikard & Protopapas, LLC
1329 Blanding Street
Columbia, South Carolina 29201
pdp@rplegalgroup.com


Alexandre N. MacClenahan
SC Bar 72507
The MacClenahan Law Firm, LLC
223 W. Stone Avenue
Greenville, SC 29609
864-382-3340/FAX: 864-751-2963
alex@macclenahanlaw.com
Attorney for Defendants
Stephen Bretzinger and
Lindsey Holsinger

Defendants Stephen Bretzinger and Lindsey Holsinger's First Set of Requests for
Admission to Plaintiff served on February 1, 2017

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
Neal Truslow,	)	Case No.: 2016-CP-40-03728
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANTS STEPHEN
	)	BRETZINGER and LINDSEY
Stephen Bretzinger, Lindsey Holsinger,	)	HOLSINGER'S FIRST SET of
and Rikard & Protopapas, LLC.	)	REQUESTS for ADMISSION
	)	to PLAINTIFF
Defendants.	)	

Pursuant to Rule 36, SCRCP, Plaintiff Neal Truslow, within thirty (30) days of service of this Request, is hereby requested to admit or deny the truth of the following requests for admission. By making these requests, Defendants in no way waive their rights and defenses set forth in any pleadings in this matter.

DEFINITIONS

1. The terms "document" or "documents" have the same meaning as the term "writing and recordings" as defined in the South Carolina Rule of Evidence 1001. The terms include any form of written, recorded, or stored information, whether in the form of paper, audio tape, video tape, magnetic tape, magnetic disk, laser disk, computer, computer component, computer network, computer system, film, email, or other medium of any sort, including e-mails and facsimiles.

2. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the request those documents that may be otherwise construed to be outside of its scope.

3. "Person" means any natural person as well as any business, legal or governmental entity or association.

4. "Communication" means any manner of transmitting or receiving information whether orally, in writing, or otherwise.

5. "Complaint" means the Complaint filed in the above captioned matter on June 16, 2016.

6. The terms "Plaintiff", "you" or "your" shall refer to Plaintiff Neal Truslow, and his attorneys, agents and representatives.

7. The term "Defendants" shall collectively refer to Stephen Bretzinger and Lindsey Holsinger and their attorneys, agents and representatives.

"Federal Action" means the lawsuit filed in U.S District Court, District of South Carolina, bearing civil action number: 0:13-CV-02771-JMC.

REQUESTS FOR ADMISSION

1. Admit that the document attached hereto as Exhibit A is a true and correct copy of the fee agreement you contend Defendants' breached.

RESPONSE:

2. Admit that you are bound by the terms set forth in the document attached hereto as Exhibit A.

RESPONSE:

3. Admit that in Paragraph 6 of Exhibit A you agreed to advance all costs in connection with your representation of Defendants.

RESPONSE:

4. Admit that in Paragraph 10 of Exhibit A you agreed to resolve all disputes concerning the fee agreement in arbitration in the City of Rock Hill, South Carolina.

RESPONSE:

5. Admit that in Paragraph 6 of Exhibit A you agreed that any attorney fee "will be shared equally amongst the attorneys."

RESPONSE:

6. If you were to prevail in this action, admit that pursuant to Paragraph 6 of Exhibit A, the most you would be entitled to recover in attorneys' fees is \$16,500.00.

RESPONSE:

7. Admit that in Paragraph 11 of Exhibit A you agreed that the "rights and duties contained herein shall not be transferable by the parties."

RESPONSE:

8. Admit that Nosal & Jeter, LLP, or its agents, did not assign to you its interest in the attorney fee you allege Defendants' owe.

RESPONSE:

9. Admit that Nosal and Jeter, LLP did not enter into a written assignment of interest with you.

RESPONSE:

10. Admit that on October 24, 2016 you and/or your counsel were informed that The MacClenahan Law Firm, LLC represented Defendants.

RESPONSE:

11. Admit that the e-mail attached hereto as Exhibit B is a true and accurate copy of an e-mail sent by your counsel to Defendants' counsel at approximately 10:52a.m. on October 24, 2016.

RESPONSE:

12. Admit that the e-mail attached hereto as Exhibit C is a true and accurate copy of an e-mail sent by your counsel, acting on your behalf, on November 14, 2016.

RESPONSE:

13. Admit that the e-mail attached hereto as Exhibit D is a true and accurate copy of an e-mail sent on November 14, 2016 by Mara Ballard from the law firm of Ballard & Watson while acting on your behalf.

RESPONSE:

14. Admit that the e-mail attached hereto as Exhibit E is a true and accurate copy of an e-mail your counsel received on November 15, 2016.

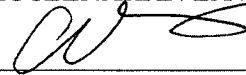
RESPONSE:

15. Admit that the e-mail attached hereto as Exhibit F is a true and accurate copy of an e-mail sent by your counsel, acting on your behalf, on November 15, 2016.

RESPONSE:

This the 1st day of February, 2017.

THE MACCLENAHAN LAW FIRM, LLC



Alexandre N. MacClenahan
SC Bar # 72507
223 W. Stone Avenue
Greenville, SC 29609
864-382-3340/FAX 864-331-3058
alex@macclenahanlaw.com
Attorney for Defendants
Stephen Bretzinger and
Lindsey Holsinger

EXHIBIT A



PETER J. NOSAL, Esq.
2879 Hwy 160 West # 4322
Fort Mill, SC 29708
Telephone (803) 351-3597
Fax (803) 403-9515
pete@nosalieterlaw.com
(Licensed in S.C.)

THOMAS C. JETER III, Esq.
1235 W. Morehead St
Charlotte, NC 28208
Telephone (704) 608-3429
Fax (803) 403-9515
thomas@nosalieterlaw.com
(Licensed in N.C.)

LEGAL SERVICES AGREEMENT

1. **IDENTIFICATION OF PARTIES.** This agreement is made between Nosal & Jeter, LLP, hereafter referred to as "Law Firm," and Stephen Bretzinger and Lindsay Holsinger hereafter referred to as "Client."

2. **LEGAL SERVICES TO BE PROVIDED.** The legal services to be provided by Law Firm to Client are limited to the following: Representation of Client to assist in collection of \$876,250.00 Judgment.

3. **RESPONSIBILITIES OF ATTORNEY AND CLIENT.** Law Firm will perform the legal services called for under this agreement, keep Client informed of progress and developments, and respond promptly to Client's inquiries and communications. Client will be truthful and cooperative with Law Firm; keep Law Firm reasonably informed of developments and of Client's address, telephone numbers and whereabouts; and timely make any payments required by this agreement.

4. **LAW FIRM MAY ASSOCIATE OUTSIDE COUNSEL.** Client agrees Law Firm may associate with other firms to perform representation for their case. Law Firm will associate Truslow and Truslow, PA to assist ^{with} all litigation.

5. **ATTORNEY'S FEES.** Client will pay Law Firm for attorney's fees for the legal services provided under this agreement at the respective hourly rates. The rates fall within the following ranges:

ATTORNEY RATES – Client has elected to enter into a contingency contract for these services. The attorney's fee will be 33% of any gross amount collected prior to the deduction of costs. No promises or guarantees of any financial recovery have been made regarding this claim. However, even if there is no pecuniary award or settlement, Client agrees to reimburse all agreed upon costs expended in this case. Attorney(s) agree to consult with client prior to agreeing to any abnormal costs. Normal "costs" include court filing fees, medical record charges, shipping charges, and deposition/ discovery charges. In the event that other attorneys participate in this

case, it is agreed that there will be no additional legal fees charged to Client. Any ultimate attorney fee generated will be shared equally amongst attorneys.

6. **COSTS.** Client will pay all "costs" in connection with Law Firm's representation of Client under this agreement. Costs will be advanced by Law Firm and then billed to Client unless the costs can be met out of client deposits that are applicable toward costs. Costs include, but are not limited to, court filing fees, deposition costs, expert fees and expenses, investigation costs, postage, shipping charges, long-distance telephone charges, messenger service fees, photocopying expenses, legal research costs (i.e. Westlaw), and process server fees.

7. **RETAINER.** Client will pay to Law Firm an initial retainer of \$00.00, which will be deposited into Law Firm trust account and is not subject to refund, unless required to be refunded by the Rules of Professional Conduct. Law Firm will bill against this amount at the hourly rates provided for herein. Client authorizes Law Firm to withdraw the principal from the trust account to pay attorney's fees as they are incurred by Client. If, at the termination of services under this agreement, the total amount incurred by Client for attorney's fees is less than the amount of any funds held in trust the difference will be refunded to Client.

Law Firm will notify Client whenever the full amount of any deposit has been applied to attorney's fees incurred by Client. Within 15 days after each notification is mailed, Client will pay to Law Firm an additional deposit in the same amount as the initial one. Client authorizes Law Firm to withdraw the principal from the trust account to pay attorney's fees as they are incurred by Client. Such additional deposits will be fully refundable. If, at the termination of services under this agreement, there have been two or more deposits and the total amount incurred by Client for attorney's fees is less than the total amount of all deposits, the difference will be refunded to Client.

8. **STATEMENTS AND PAYMENTS.** Law Firm will send Client monthly statements indicating attorney's fees and costs incurred and their basis, any amounts applied from deposits, and any current balance owed. If no attorney's fees or costs are incurred for a particular month, or if they are minimal, the statement may be held and combined with that for the following month. Any balance will be paid in full within 30 days after the statement is mailed.

9. **GOVERNING LAW.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of South Carolina. The section headings contained herein are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

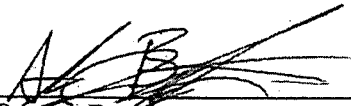
10. **DISPUTE RESOLUTION.** Any dispute, controversy or claim arising out of or in connection with, or relating to, this Agreement or any breach or alleged breach hereof shall, upon the request of any party involved, be submitted to, and settled by, arbitration in the City of Rock Hill, SC.

11. **NON-ASSIGNABLE.** The rights and duties as contained herein shall not be transferable or assignable by the parties.

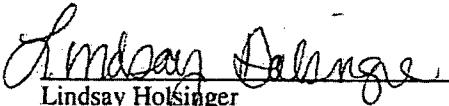
12. ENTIRE AGREEMENT. This agreement is the entire agreement among the parties with respect to the subject matter hereof, and no representations or covenants, whether oral or written, have been made regarding the subject matter hereof except as expressly provided herein.

This the 4th day of February, 2013.

The foregoing is agreed to by:



Stephen Bretzinger



Lindsay Holsinger



Nosal & Jeter, LLP
By: Peter J. Nosal

EXHIBIT B

From: Desa Ballard Desab@desaballard.com
Subject: RE: Bretzinger 2016-CP-40-3728
Date: October 24, 2016 at 10:52 AM
To: Alex MacClenahan alex@macclenahanlaw.com
Cc: Mara Ballard mara@desaballard.com, Beth Cogan Beth@desaballard.com



Alex:

Thanks for contacting me. Attached are the pleadings filed to date. This is a fee collection. Your clients did not want to pay the fees after my client settled their case. Peter is holding the money, and he has filed an answer just saying "yeah, I have the money, tell me what to do with it." The clients have already received their money.

Look forward to hearing from you.

db

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

From: Alex MacClenahan [mailto:alex@macclenahanlaw.com]
Sent: Monday, October 24, 2016 10:02 AM
To: Desa Ballard <Desab@desaballard.com>
Subject: Re: Bretzinger 2016-CP-40-3728

Thanks

On Oct 24, 2016, at 10:01 AM, Desa Ballard <Desab@desaballard.com> wrote:

Sure. I am traveling at the moment. Will be at your desk in a few hours.

Sent via the Samsung Galaxy Note5, an AT&T 4G LTE smartphone

----- Original message -----

From: Alex MacClenahan <alex@macclenahanlaw.com>
Date: 10/24/16 9:42 AM (GMT-05:00)
To: Desa Ballard <Desab@desaballard.com>
Subject: Bretzinger 2016-CP-40-3728

Desa,

I have been retained by Stephen and Lindsay Bretzinger. I am trying to get up to speed on what is going on with this case. I understand that you are in the process of obtaining service via publication. Is this correct? Also, can you provide me with a pdf copy of the pleadings you have filed?

Please let me know if you have any questions.

Thanks

Alex MacClenahan

Alex MacClenahan
The MacClenahan Law Firm, LLC
223 W. Stone Avenue
Greenville, SC 29609
Phone: 864-382-3340

Fax: 864-751-2963
alex@macclenahanlaw.com

This message (including attachments) may be privileged and confidential. If you are not the intended recipient, please delete it without further distribution and reply to the sender that you have received the message in error.

Circular 230 Disclosure: To ensure compliance with Treasury Department regulations, we inform you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of avoiding U.S. tax-related penalties or promoting, marketing, or recommending to another party any tax-related matters addressed herein.

Alex MacClenahan
The MacClenahan Law Firm, LLC
223 W. Stone Avenue
Greenville, SC 29609
Phone: 864-382-3340
Fax: 864-751-2963
alex@macclenahanlaw.com

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2016.6.16 (filed)
Summ...int.pdf



2016.09.12
Order f...ion.pdf

Order # - 4412956

SUN-SENTINEL
Published Daily
Fort Lauderdale, Broward County, Florida
Boca Raton, Palm Beach County, Florida
Miami, Miami-Dade County, Florida

STATE OF FLORIDA

COUNTY OF BROWARD/PALM BEACH/MIAMI-DADE

Before the undersigned authority personally appeared
MARK KUZNITZ, who on oath says that he or she is a duly authorized representative of the **SUN-SENTINEL**, a DAILY newspaper published in BROWARD/PALM BEACH/MIAMI-DADE County, Florida; that the attached copy of advertisement, being a Legal Notice in:

The matter of 11710-Notice of Administrative

Ballard & Watson, Attorneys at Law
Post Office Box 6338
West Columbia, SC 29171

Was published in said newspaper in the issues of Sep 22, 2016; Sep 29, 2016; Oct 6, 2016

4471901

Affiant further says that the said **SUN-SENTINEL** is a newspaper published in said BROWARD/PALM BEACH/MIAMI-DADE County, Florida; and that the said newspaper has

2016 OCT 16 PM 12:20
BROWARD COUNTY
FILED
JANUARY 15 2017
CLERK OF COURT

RECEIVED BY THE CLERK OF THE
COUNTY OF BROWARD
ON THE 16TH DAY OF OCTOBER
2016 AT 12:20 PM
CLERK OF COURT
BROWARD COUNTY
FLORIDA

Mark Kwan
Signature of Affiant

Christine Buffels
Signature of Notary Public

CHRISTINE RUFFOLO
MY COMMISSION EXPIRES
August 21, 2011

Personally Known (X) or Produced Identification ()

~~Page 12 of 12 signed 1/10/2010~~

464

EXHIBIT C

From: Mara Ballard mara@desaballard.com
Subject: Truslow, Neal (Bretzinger);
Date: November 14, 2016 at 3:45 PM
To: pdp@rplegalgroup.com, alex@macclenahanlaw.com
Cc: Desa Ballard Desab@desaballard.com, Harvey Watson Harvey@desaballard.com



Gentlemen,

Please see the attached documents which were taken to the Clerk of Court today for filing. The unfiled versions were placed in the mail to you for service earlier today.

If you have any questions, please let us know.

With Kindest Regards,

Mara T. Ballard, CFE, CMA
Forensic Accountant
Ballard & Watson Attorneys at Law
226 State Street (29169)
Post Office Box 6338
West Columbia, South Carolina 29171
803.796.9299
803.796.1066 Facsimile
www.desaballard.com



2016.11.14 Filed
Affidav...ent.pdf



Ballard & Watson
Attorneys at Law
PERSISTENT. UNWAVERING.

November 14, 2016

Via Hand Delivery
Richland County Clerk of Court
Judicial Center, 1701 Main Street
Post Office Box 2766
Columbia, South Carolina 29202

Desa Ballard
Harvey M. Watson III

Post Office Box 6338 | West Columbia, SC 29171
226 State Street | West Columbia, SC 29169
ph: 803.796.9299 | fx: 803.796.1066 | desaballard.com

Re: Neal Truslow (Bretzinger)
Case No: 2016-CP-40-03728 and 0:13-cv-02771-JMC

Dear Ms. McBride:

Enclosed for filing is an original and Two (2) copies of the following documents which I am submitting in the above matter.

- o Motion Cover Sheet
- o Affidavit of Default with Exhibits
- o Motion for Default Judgment
- o (proposed order for) Default Judgment

Please file the originals, except the proposed Order of and return a clocked-in copies to our employee. We will take the proposed Order to Judge Benjamin's office for her consideration. Please note the original bears proof of service by mail on opposing counsel. I am also enclosing our filing fee of \$25.00

If you should have any questions, please contact us at 803.796.9299 or I may be reached at the email listed below. With warm personal regards, I am,

Sincerely yours,


Mary T. Ballard, CFE, CMA
mary@desaballard.com

c: (Via US Mail and Email)
Peter D. Protopapas, Esquire
Alexandre MacClenahan, Esquire

EXHIBIT D

From: Mara Ballard mara@desaballard.com
Subject: Recall: Truslow, Neal (Bretzinger);
Date: November 14, 2016 at 3:54 PM
To: pdp@rplegalgroup.com, alex@macclenahanlaw.com
Cc: Desa Ballard Desab@desaballard.com, Harvey Watson Harvey@desaballard.com

Mara Ballard would like to recall the message, "Truslow, Neal (Bretzinger),".

EXHIBIT E

From: Alex MacClenahan alex@macclenahanlaw.com
Subject: Re: Truslow, Neal (Bretzinger);
Date: November 15, 2016 at 11:22 AM
To: Desa Ballard desab@desaballard.com
Cc: Peter Protopapas pdp@rplegalgroup.com



Desa,

I was in the process of drafting the Answer in this matter when I received your a. The answer is being sent to the Court for filing and I have provided a copy to via PDG. Will you agree to set aside the default or do I need to file a motion.

Thanks

Alex



Bretzinger -
Answer.pdf

On Nov 14, 2016, at 3:45 PM, Mara Ballard <marab@desaballard.com> wrote:

Gentlemen,

Please see the attached documents which were taken to the Clerk of Court today for filing. The unfiled versions were placed in the mail to you for service earlier today.

If you have any questions, please let us know.

With Kindest Regards,

Mara T. Ballard, CFE, CMA
Forensic Accountant
Ballard & Watson Attorneys at Law
226 State Street (29169)
Post Office Box 6338
West Columbia, South Carolina 29171
803.796.9299
803.796.1066 Facsimile
www.desaballard.com
<image003.jpg>

<2016.11.14 Filed Affidavit of Default and Motion for Judgment.pdf>

Alex MacClenahan
The MacClenahan Law Firm, LLC
223 W. Stone Avenue
Greenville, SC 29609
Phone: 864-382-3340
Fax: 864-751-2963
alex@macclenahanlaw.com

This message (including attachments) may be privileged and confidential. If you are not the intended recipient, please delete it without further distribution and reply to the sender that you have received the message in error.

Circular 230 Disclosure: To ensure compliance with Treasury Department regulations, we inform you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of avoiding U.S. tax-related penalties or promoting, marketing, or recommending to another party any tax-related matters addressed herein.

EXHIBIT F

From: Desa Ballard Desab@desaballard.com
Subject: RE: Truslow, Neal (Bretzinger);
Date: November 15, 2016 at 12:06 PM
To: Alex MacClenahan alex@macclenahanlaw.com
Cc: Peter Protopapas pdp@rlegalgroup.com, Beth Cogan Beth@desaballard.com



No I can't consent to setting aside the default. Nothing personal I assure you, I'm sure you understand, but your clients have been impossible to deal with. They ducked service by several methods and we had to resort to service by publication. They didn't answer in time. I assumed you had not taken the case once you saw your clients were trying to get out of paying their lawyers (assumed you would not want the same to happen to you).

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

From: Alex MacClenahan [mailto:alex@macclenahanlaw.com]
Sent: Tuesday, November 15, 2016 11:23 AM
To: Desa Ballard <Desab@desaballard.com>
Cc: Peter Protopapas <pdp@rlegalgroup.com>
Subject: Re: Truslow, Neal (Bretzinger);

Desa,

I was in the process of drafting the Answer in this matter when I received your a. The answer is being sent to the Court for filing and I have provided a copy to via PDG. Will you agree to set aside the default or do I need to file a motion.

Thanks

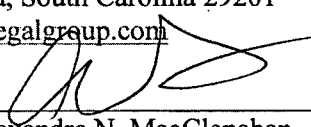
Alex

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
Neal Truslow,	)	Case No.: 2016-CP-40-03728
	)	
Plaintiff,	)	
	)	Certificate of Service
vs.	)	
	)	
Stephen Bretzinger, Lindsey Holsinger,	)	
and Rikard & Protopapas, LLC.	)	
	)	
Defendants.	)	

The undersigned attorney for Defendants Stephen Bretzinger and Lindsey Holsinger hereby certifies that on February 1, 2017 he served a copy of the forgoing **Defendant Stephen Bretzinger and Lindsey Holsinger's First Set of Requests for Admission** via United States Mail, sufficient postage prepaid, addressed to all counsel of record as follows:

Desa Ballard
 Ballard & Watson
 Post Office Box 6338
 West Columbia, South Carolina 29171
desab@desaballard.com

Peter Protopapas
 Rikard & Protopapas, LLC
 1329 Blanding Street
 Columbia, South Carolina 29201
pdp@rplegalgroup.com


 Alexandre N. MacClenahan
 SC Bar 72507
 The MacClenahan Law Firm, LLC
 223 W. Stone Avenue
 Greenville, SC 29609
 864-382-3340/FAX: 864-751-2963
alex@macclenahanlaw.com
 Attorney for Defendants
 Stephen Bretzinger and
 Lindsey Holsinger

Plaintiff's First Interrogatories to Defendants Stephen Bretzinger and Lindsey Holsinger
served on February 3, 2017

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-40-3728

Neal Truslow)

Plaintiff,)

vs.)

Stephen Bretzinger,)

Lindsey Holsinger; and)

Rikard & Protopapas, LLC)

Defendants)

**PLAINTIFF'S FIRST
INTERROGATORIES TO DEFENDANTS
STEPHEN BRETZINGER AND LINDSEY
HOLSINGER**

The Plaintiff, by and through the undersigned attorneys, hereby require the Defendant, Stephen Bretzinger and Lindsey Holsinger to answer under oath the Interrogatories hereinafter set forth within thirty (30) days after the serving hereof in accordance with Rule 33 of the South Carolina Rules of Civil Procedure.

DEFINITIONS

As used herein, except when the context requires otherwise, the following definitions shall apply.

1. "You", "your", or "plaintiff(s)" shall mean defendant(s) or either of them, or any pertinent predecessors, successor, or subsidiary thereof, their employees, agents, servants, officers, directors, or representatives, as well as all persons acting or purporting to act on their behalf for any purpose relevant to these Interrogatories.

2. "Person" shall mean any individual, partnership, firm, association, corporation, or any other business, governmental, or legal entity.

3. "Identify" or "identity", when used in reference to a natural person, shall require you to state (a) his full name, (b) his present or last known address, and (c) his present or last known employer and job title. When used in reference to a corporation or business entity, "identify" or "identity" shall require you to state (a) the full name of the corporation or business entity, (b) the present or last known address, and (c) the principal place of business and state of incorporation. When used in reference to a document, "identify" or "identity" shall require you to state (a) the date of such document, (b) the type of document, (c) the present location of such document or copies of such document, and (d) a brief summary of the contents of such document.

4. "Document" or documents" shall mean all correspondence, records, reports, indices, summaries, compilations, extracts, memoranda, forms, graphs, technical data or charts, photographs, films, videotapes, sound recordings, invoices, specifications, laboratory reports, protocols, manuals, brochures, pamphlets, advertisements, promotional materials, instructions, literature, computer data bases or printouts, sketches, package inserts, labels, press releases, or any other graphic, visual, written, or recorded electronically or otherwise, of any kind whatsoever, within the knowledge, possession, custody, of any kind whatsoever, within the knowledge, possession, custody, control, or subject to the control of the defendants or their attorneys.

INSTRUCTIONS

1. If all of the information furnished in response to all or any part of an Interrogatory is not within the personal knowledge of the defendants or her attorneys, identify each person to whom all or any part of the information furnished is a matter of personal knowledge or each person who communicated to the defendants or her attorneys all or any part of the information furnished.

2. If the answer to all or any part of an Interrogatory is not presently known or available, include a statement to that effect.

3. If you do not have all or any part of the information requested in an Interrogatory and are unable to obtain it within the time permitted by the South Carolina Rules of Procedure, state the information to the best of your knowledge upon information and belief and identify the source of that information.

4. If objections are entered to all or any part of an Interrogatory, state the specific grounds for the objection and answer such Interrogatory to the extent to which there is no objection.

5. If a privilege is asserted concerning all or any part of the information requested by an Interrogatory, identify the information or document for which privilege is asserted and state the specific grounds for each such privilege asserted.

6. For purposes of the interrogatories set forth herein, any attorney-client or work product privilege by and between the defendants and the plaintiff is expressly waived.

7. The following Interrogatories shall be deemed to continue from the time of service until the time of trial of the case so that information sought which comes to the knowledge of said party, his/her representative, or attorney, after Answers to Interrogatories have been submitted, shall be transmitted to the undersigned.

INTERROGATORIES

INTERROGATORY NO. 1: Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

INTERROGATORY NO. 2: Set forth a list of photographs, plate, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

INTERROGATORY NO. 3: List the names and addresses of any witnesses you plan to use to support your claim that you have a meritorious defense to this action.

INTERROGATORY NO. 4: For each person known to the parties or counsel to be a witness concerning the service of the summons and complaint, the entry of default, or the existence of a meritorious defense, set forth a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

INTERROGATORY NO. 5: Identify all email addresses used by each of the defendants, both personally and for business use, that you have used at any time since January 1, 2016. As to each:

- (a) List all email software and versions presently and previously used by you and the dates of use from January 1, 2016 to the present.
- (b) Identify all users you know of who have generated email related to the subject matter of this litigation.
- (c) Identify by sender and recipient any and all email messages you know of, including the creation date, the recipient, and the sender, relating to, referencing or relevant to

the service of the pleadings in this case and/or a meritorious defense you intend to assert, and provide the substantive content of each. In lieu of providing the substantive content, you may provide a screen shot or copy of each email responsive to this request.

INTERROGATORY NO. 6: Identify each cell phone or portable electronic device used by either of the defendants at any time during since January 1, 2016, and as to each:

- (a) Identify the phone number(s) for that device.
- (b) Identify the carrier for each telephone and the account number(s) for all accounts which provide service for that device.
- (c) If you have changed electronic devices at any time since January 1, 2016, identify the location of the prior electronic device used by you.
- (d) Identify all persons or entities with whom you have exchanged or received text messages from at any time since January 1, 2016 relating to, referencing or relevant to the service of the pleadings in this case and/or a meritorious defense you intend to assert.
- (e) Identify by date and party(s) the sender and/or recipient, date of the text message and content of each text message that is responsive to this request. In lieu of providing the substantive content, you may provide a screen shot or copy of each email responsive to this request.



Desa Ballard
Harvey M. Watson III

BALLARD & WATSON
Post Office Box 6338
West Columbia, South Carolina 29171
Telephone: 803.796.9299
Facsimile: 803.796.1066
desab@desaballard.com
harvey@desaballard.com

COUNSEL FOR PLAINTIFF

February 3, 2017

I, Beth Cogan, an employee of the Ballard & Watson
Attorneys at Law certify that I have this date served a copy
of Plaintiff First Interrogatories on all
counsel of record and *Pro Se* parties by depositing a copy
properly addressed, with sufficient First Class postage
affixed, to each, in the United States Mail.

Date: 2/3/17 Signed: Beth K Cogan

Page 4 of 4

Plaintiff's Responses to Defendants Stephen Bretzinger and Lindsey Holsinger's First Set
of Request for Admission served on February 21, 2017

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
	)	Case No. 2016-CP-40-03728
Neal Truslow	)	
	)	
	)	
Plaintiff	)	PLAINTIFF'S RESPONSES TO
vs.	)	DEFENDANTS STEPHEN BRETZINGER
	)	AND LINDSEY HOLSINGER'S FIRST
Stephen Bretzinger,	)	SET OF REQUESTS FOR ADMISSION
Lindsey Holsinger, and	)	
Rikard & Protopapas, LLC	)	
	)	
Defendants	)	

TO: ALEX MACCLENAHAN, ESQ., ATTORNEY FOR THE DEFENDANTS STEPHEN BRETZINGER AND LINDSEY HOLSINGER:

Pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, the following constitute Plaintiff's responses to Request for Admissions propounded by Defendants Stephen Bretzinger and Lindsey Holsinger.

REQUESTS FOR ADMISSION

1. Admit that the document attached hereto as Exhibit A is a true and correct copy of the fee agreement you contend Defendants' breached.

RESPONSE: Admit insofar as Nosal & Jeter LLP acted as an agent for Plaintiff.

2. Admit that you are bound by the terms set forth in the document attached hereto as Exhibit A.

RESPONSE: Plaintiff admits that all parties were bound by the terms of Exhibit A.

3. Admit that in Paragraph 6 of Exhibit A you agreed to advance all costs in connection with your representation of Defendants.

RESPONSE: Denied as alleged. Plaintiff admits that the contract provided for "Client to pay all "costs" in connection with Law Firm's representation of Client under this agreement. Costs will be advanced by Law Firm and then billed to Client unless the costs can be met out of client deposits that are applicable toward costs."

4. Admit that in Paragraph 10 of Exhibit A you agreed to resolve all disputes concerning the fee agreement in arbitration in the City of Rock Hill, South Carolina.

RESPONSE: Denied.

5. Admit that in Paragraph 6 of Exhibit A you agreed that any attorney fee "will be shared equally amongst the attorneys."

RESPONSE: Denied. See Paragraph 5. Division of attorney's fees is governed by Rule 1.5.

6. If you were to prevail in this action, admit that pursuant to Paragraph 6 of Exhibit A, the most you would be entitled to recover in attorneys' fees is \$16,500.00.

RESPONSE: Denied.

7. Admit that in Paragraph 11 of Exhibit A you agreed that the "rights and duties contained herein shall not be transferable by the parties."

RESPONSE: Denied. That statement prohibited assigning legal representation to attorneys others than those identified in Exhibit A. It had no effect on attorney's fees.

8. Admit that Nosal & Jeter, LLP, or its agents, did not assign to you its interest in the attorney fee you allege Defendants' owe.

RESPONSE: Denied.

9. Nosal and Jeter, LLP did not enter into a written assignment of interest with you.

RESPONSE: Denied.

10. Admit that on October 24, 2016 you and/or your counsel were informed that The MacClenahan Law Firm, LLC represented Defendants.

RESPONSE: Admit as of that date, my counsel and I were informed the firm had been retained. We had no further contact after sending the pleadings, or after the default date, and assumed that your lawyer had declined to represent you once he had reviewed the complaint and learned Defendants were attempting to avoid paying their prior attorney.

11. Admit that the e-mail attached hereto as Exhibit B is a true and accurate copy of an e-mail sent by your counsel to Defendants' counsel at approximately 10:52a.m. on October 24, 2016.

RESPONSE: Admit.

12. Admit that the e-mail attached hereto as Exhibit C is a true and accurate copy of an e-mail sent by your counsel, acting on your behalf, on November 14, 2016.

RESPONSE: Admit.

13. Admit that the e-mail attached hereto as Exhibit D is a true and accurate copy of an e-mail sent on November 14, 2016 by Mara Ballard from the law firm of Ballard & Watson while acting on your behalf.

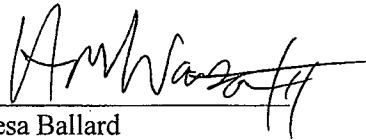
RESPONSE: Admit.

14. Admit that the e-mail attached hereto as Exhibit E is a true and accurate copy of an e-mail your counsel received on November 15, 2016.

RESPONSE: Admit.

15. Admit that the e-mail attached hereto as Exhibit F is a true and accurate copy of an e-mail sent by your counsel, acting on your behalf, on November 15, 2016.

RESPONSE: Admit.



Desa Ballard
Harvey M. Watson III
BALLARD & WATSON
Post Office Box 6338
West Columbia, South Carolina 29171
Telephone 803.796.9299
Facsimile 803.796.1066
desab@desaballard.com
harvey@desballard.com

ATTORNEYS FOR PLAINTIFF

February 21, 2017

I, Beth Cogan, an employee of the Ballard & Watson
Attorneys at Law certify that I have this date served a copy
of Response to First RFA on all
counsel of record and *Pro Se* parties by depositing a copy
properly addressed, with sufficient First Class postage
affixed, to each, in the United States Mail.
Date: 2/21/17 Signed: Beth Cogan

Stephen Bretzinger and Lindsey Holsinger's Responses to Plaintiffs' Request to Produce
served on February 24, 2017

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
Neal Truslow,	)	Case No.: 2016-CP-40-03728
	)	
Plaintiff,	)	
	)	DEFENDANTS STEPHEN
vs.	)	BRETZINGER and LINDSEY
	)	HOLSINGER'S RESPONSES to
Stephen Bretzinger, Lindsey Holsinger,	)	PLAINTIFF'S REQUEST
and Rikard & Protopapas, LLC.	)	TO PRODUCE
	)	
Defendants.	)	

Pursuant to Rule 34 of the SCRPC, Defendants Stephen Bretzinger and Lindsey Holsinger respond to Plaintiff's Request to Produce as follows:

1. Any and all of your bank statements, deposit slips, electronic copies of checks or other instruments reflecting receipt by you of any settlement proceeds from the prior litigation including but not limited to any funds paid or receipt by Rikard and Protopapas in the amount of \$100,000.00 from Builders Insurance Group on behalf of Scenic Homes, in check number 0001166045. A copy of this check is attached hereto and incorporated herein as Exhibit A to these Request to Produce.

RESPONSE: Defendants object to this request on the grounds that it is overly broad, unduly burdensome, harassing and not reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiving the forgoing objections, Defendants respond as follows:

Defendants admit receiving \$64,534.12 from the settlement proceeds. The balance is being in held in trust at the law firm of Rikard and Protopapas. Enclosed and served contemporaneously herewith is a copy of the check in the amount of \$64,534.12 made payable to Stephen Bretzinger and Lindsay Holsinger.

2. Any and all of your bank statements, deposit slips, checks, electronic copies, debit card entries, credit card receipts or statements or other documents or instruments reflecting the disbursement by you or on your behalf of any of the funds referred to in Request No. 1.

RESPONSE: Defendants object to this request on the grounds that it is overly broad, unduly burdensome, harassing and not reasonably calculated

to lead to the discovery of admissible evidence. Subject to, and without waiving the forgoing objections, Defendants respond as follows:

Defendants admit receiving \$64,534.12 from the settlement proceeds. The balance is being held in trust at the law firm of Rikard and Protopapas. Enclosed and served contemporaneously herewith is a copy of the check in the amount of \$64,534.12 made payable to Stephen Bretzinger and Lindsay Holsinger.

3. Any and all correspondence exchanged by and between you and/or the plaintiff and/or any officer or agent of Rikard and Protopapas LLC related to this matter or the prior litigation, reserving of course any documents which are privileged but as to those produce a privilege log.

RESPONSE: Defendants object to this request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine. Subject to, and without waiving the forgoing objections, Defendants respond as follows:

Enclosed and served contemporaneously herewith is

- (1) a copy of the check in the amount of \$64,534.12 made payable to Stephen Bretzinger and Lindsay Holsinger.
- (2) Distribution Authorization signed by Defendants
- (3) Authorization to Execute signed by the Defendants

Counsel is still reviewing e-mail correspondence between Defendants and Rickard and Protopapas, LLC to determine which, if any, of the communications are privileged. Defendants will supplement this response upon completion of the review.

4. Any and all copies of the complaint in this action received by you from any source including any envelope in which the copy was received or email to which the complaint was attached.

RESPONSE: Defendants object to this request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine. Subject to, and without waiving the forgoing objections, Defendants respond as follows:

Defendants, via counsel, received a copy of the complaint on October 24, 2016.

This the 24th day of February, 2017.

THE MACCLENAHAN LAW FIRM, LLC



Alexandre N. MacClenahan
SC Bar # 72507
223 W. Stone Avenue
Greenville, SC 29609
864-382-3340/FAX 864-331-3058
alex@macclenahanlaw.com
Attorney for Defendants
Stephen Bretzinger and
Lindsey Holsinger

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow,

Plaintiff,

vs.

Stephen Bretzinger, Lindsey Holsinger,
and Rikard & Protopapas, LLC.

Defendants.

FIFTH JUDICIAL CIRCUIT

IN THE COURT OF COMMON PLEAS

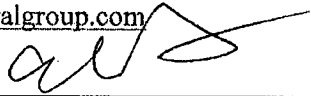
Case No.: 2016-CP-40-03728

Certificate of Service

The undersigned attorney for Defendants Stephen Bretzinger and Lindsey Holsinger hereby certifies that on February 24, 2017 he served a copy of the forgoing **Defendant Stephen Bretzinger and Lindsey Holsinger's Responses to Plaintiff's Requests to Produce** via United States Mail, sufficient postage prepaid, addressed to all counsel of record as follows:

Desa Ballard
Ballard & Watson
Post Office Box 6338
West Columbia, South Carolina 29171
desab@desaballard.com

Peter Protopapas
Rikard & Protopapas, LLC
1329 Blanding Street
Columbia, South Carolina 29201
pdp@rplegalgroup.com

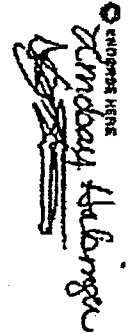

Alexandre N. MacClenahan
SC Bar 72507
The MacClenahan Law Firm, LLC
223 W. Stone Avenue
Greenville, SC 29609
864-382-3340/FAX: 864-751-2963
alex@macclenahanlaw.com
Attorney for Defendants
Stephen Bretzinger and
Lindsey Holsinger

10/14/2015

Check Viewing

Page 1

RIKARD & PROTOPAPAS, LLC IOLTA ACCOUNT 1329 BLANCHARD STREET COLUMBIA, SC 29201		SOUTHERN FIRST BANK, N.A. 67-501-532		2081
PAY TO THE ORDER OF <u>Stephen Bretzinger and Lindsay Holsinger</u>		\$ <u>**64,534.12</u>		7/31/2015
<u>Sixty-Four Thousand Five Hundred Thirty-Four and 12/100</u>		<u>*****</u>		DOLLARS
Stephen Bretzinger and Lindsay Holsinger 7686 Corkwood Avenue Boynton Beach, FL 33437				B
MEMO		AUTHORIZED SIGNATURE		

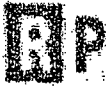
DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE		
Branch: 379		
Seq: 3		
Batch: 003144		
Date: 09/04/15		

By Stephen Bretzinger on 09/04/15 Batch 3, 144

FEDERAL RESERVE BOARD OF GOVERNORS REG. 55

- \$64,534.12 2081 09082015

490



Rikard & Protopapas, LLC
Attorneys and Counselors at Law

Robert G. Rikard
rgre@rlegalgroup.com

Peter D. Protopapas
pdp@rlegalgroup.com

Alyson C. Rikard
acr@rlegalgroup.com

Charles E. Upm
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1329 Blanding Street
Columbia, SC 29201

Post Office Box 5640
Columbia, SC 29250

tel: 803.978.6111
fax: 803.978.6112
web: rlegalgroup.com

DISTRIBUTION AUTHORIZATION

DATE: June 16, 2015

RE: Stephen Bretzinger & Lindsay Holsinger

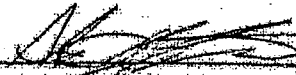
TOTAL FUNDS RECEIVED FROM BUILDERS INSURANCE.....\$100,000.00

DISBURSEMENTS:

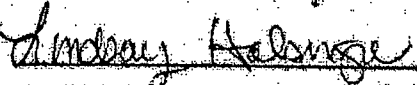
*Amount to be held in trust pending resolution of fee dispute with
Neal Truslow & Peter Nosal.....\$33,333.33

Costs for Truslow & Truslow.....\$2,132.55

Net Amount to (CLIENT).....\$64,534.12


STEPHEN BRETZINGER

DATED: 7/23/15


LINDSAY HOLSINGER

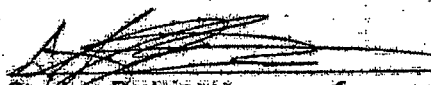
DATED: 07/12/15

AUTHORIZATION TO EXECUTE

We, Stephen Bretzinger and Lindsay Holsinger, do hereby authorize our attorneys, Rikard & Protopapas to execute and deposit the settlement check in the amount of \$100,000 received from from Builders Insurance Group being made payable to us and our attorneys. We authorize our attorneys to sign and deposit check into the trust account of Rikard & Protopapas and to disburse the funds in accordance with the Distribution of Settlement Funds once the check has cleared.

This Authorization is to be used only for the instance set forth in this document.

Dated this 12th day of July, 2015.


Stephen Bretzinger

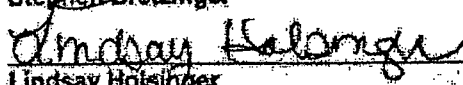
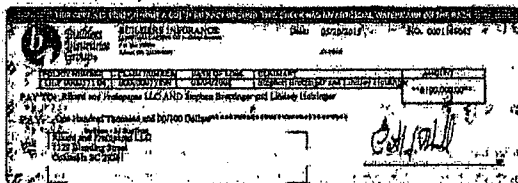

Lindsay Holsinger

Image Deposit Report

Batch ID: 46223656
Batch Name: RIKARD AND PROTOPAPAS LLC Jul 14 2016 10:59AM EST
Depositor Name: RIKARD AND PROTOPAPAS LLC
Deposit Account Number: *****5937
Total Amount: \$100,000.00
Total Item Count: 1

Amount: \$100,000.00



U0001166045U T061100790T 8800608302U

THIS CHECK IS VOID WITHOUT A COLORED BACKGROUND. THIS CHECK HAS AN ARTIFICIAL WATERMARK ON THE BACK.

BONDERS INSURANCE Date: 07/20/2016 NO: 0001166045

ACCOUNT NUMBER	TOTAL NUMBER	DATE OF LOSS	CLAIMANT	AMOUNT
00000000000000000000	000000000000000000	08/04/2016	Stephen Brezinger and Lindsey Holmstrom	\$100,000.00

PAY TO: Rikard and Protopapas LLC AND Stephen Brezinger and Lindsey Holmstrom
PAY TO: One Hundred Thousand and 00/100 Dollars

Builder's 64 500000
Rikard and Protopapas LLC
2200 Birminghams Blvd
Columbia SC 29201

Stephen Brezinger

Defendants Stephen Bretzinger and Lindsey Holsinger's Supplemental Responses to
Plaintiff's Request to Produce served on March 1, 2017

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
Neal Truslow,	)	Case No.: 2016-CP-40-03728
	)	
Plaintiff,	)	
	)	DEFENDANTS STEPHEN
vs.	)	BRETZINGER and
	)	LINDSEY HOLSINGER'S
Stephen Bretzinger, Lindsey Holsinger,	)	SUPPLEMENTAL RESPONSES
and Rikard & Protopapas, LLC.	)	to PLAINTIFF'S REQUEST
	)	TO PRODUCE
Defendants.	)	

Pursuant to Rule 34 of the SCRPC, Defendants Stephen Bretzinger and Lindsey Holsinger respond to Plaintiff's Request to Produce as follows:

1. Any and all of your bank statements, deposit slips, electronic copies of checks or other instruments reflecting receipt by you of any settlement proceeds from the prior litigation including but not limited to any funds paid or receipt by Rikard and Protopapas in the amount of \$100,000.00 from Builders Insurance Group on behalf of Scenic Homes, in check number 0001166045. A copy of this check is attached hereto and incorporated herein as Exhibit A to these Request to Produce.

RESPONSE: Defendants object to this request on the grounds that it is overly broad, unduly burdensome, harassing and not reasonably calculated to lead to the discovery of admissible evidence. Subject to, and without waiving the forgoing objections, Defendants respond as follows:

Defendants admit receiving \$64,534.12 from the settlement proceeds. The balance is being in held in trust at the law firm of Rikard and Protopapas. Enclosed and served contemporaneously herewith is a copy of the check in the amount of \$64,534.12 made payable to Stephen Bretzinger and Lindsay Holsinger.

2. Any and all of your bank statements, deposit slips, checks, electronic copies, debit card entries, credit card receipts or statements or other documents or instruments reflecting the disbursement by you or on your behalf of any of the funds referred to in Request No. 1.

RESPONSE: Defendants object to this request on the grounds that it is overly broad, unduly burdensome, harassing and not reasonably calculated

to lead to the discovery of admissible evidence. Subject to, and without waiving the forgoing objections, Defendants respond as follows:

Defendants admit receiving \$64,534.12 from the settlement proceeds. The balance is being held in trust at the law firm of Rikard and Protopapas. Enclosed and served contemporaneously herewith is a copy of the check in the amount of \$64,534.12 made payable to Stephen Bretzinger and Lindsay Holsinger.

3. Any and all correspondence exchanged by and between you and/or the plaintiff and/or any officer or agent of Rikard and Protopapas LLC related to this matter or the prior litigation, reserving of course any documents which are privileged but as to those produce a privilege log.

RESPONSE: Defendants object to this request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine. Subject to, and without waiving the forgoing objections, Defendants respond as follows:

Enclosed and served contemporaneously herewith is

- (1) a copy of the check in the amount of \$64,534.12 made payable to Stephen Bretzinger and Lindsay Holsinger.
- (2) Distribution Authorization signed by Defendants
- (3) Authorization to Execute signed by the Defendants

Counsel is still reviewing e-mail correspondence between Defendants and Rickard and Protopapas, LLC to determine which, if any, of the communications are privileged. Defendants will supplement this response upon completion of the review.

4. Any and all copies of the complaint in this action received by you from any source including any envelope in which the copy was received or email to which the complaint was attached.

RESPONSE: Defendants object to this request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine. Subject to, and without waiving the forgoing objections, Defendants respond as follows:

Defendants, via counsel, received a copy of the complaint on October 24, 2016.

This the 1st day of March, 2017.

THE MACCLENAHAN LAW FIRM, LLC



Alexandre N. MacClenahan
SC Bar # 72507
223 W. Stone Avenue
Greenville, SC 29609
864-382-3340/FAX 864-331-3058
alex@macclenahanlaw.com
Attorney for Defendants
Stephen Bretzinger and
Lindsey Holsinger

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow,

Plaintiff,

vs.

Stephen Bretzinger, Lindsey Holsinger,
and Rikard & Protopapas, LLC.

Defendants.

FIFTH JUDICIAL CIRCUIT

IN THE COURT OF COMMON PLEAS

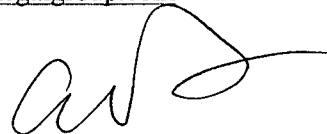
Case No.: 2016-CP-40-03728

Certificate of Service

The undersigned attorney for Defendants Stephen Bretzinger and Lindsey Holsinger hereby certifies that on March 1, 2017 he served a copy of the forgoing **Defendant Stephen Bretzinger and Lindsey Holsinger's Supplemental Responses to Plaintiff's Requests to Produce** via United States Mail, sufficient postage prepaid, addressed to all counsel of record as follows:

Desa Ballard
Ballard & Watson
Post Office Box 6338
West Columbia, South Carolina 29171
desab@desaballard.com

Peter Protopapas
Rikard & Protopapas, LLC
1329 Blanding Street
Columbia, South Carolina 29201
pdp@rplegalgroup.com



Alexandre N. MacClenahan
SC Bar 72507
The MacClenahan Law Firm, LLC
223 W. Stone Avenue
Greenville, SC 29609
864-382-3340/FAX: 864-751-2963
alex@macclenahanlaw.com
Attorney for Defendants
Stephen Bretzinger and
Lindsey Holsinger

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
Neal Truslow,	)	Case No.: 2016-CP-40-03728
	)	
Plaintiff,	)	
	)	DEFENDANTS STEPHEN
vs.	)	BRETZINGER and LINDSEY
	)	HOLSINGER'S PRIVILEGE LOG
Stephen Bretzinger, Lindsey Holsinger,	)	
and Rikard & Protopapas, LLC.	)	
	)	
Defendants.	)	

A/C = Attorney Client Privilege

W/P = Work Product

Dates	To	From	CC	Grounds
11/7/2014	Stephen Bretzinger	Peter Protopapas	Jo Boyd	A/C
11/10/2014	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh	A/C
11/12/2014	Jo Boyd	Stephen Bretzinger		A/C W/P
11/12/2014	Jo Boyd	Stephen Bretzinger	Peter Protopapas	A/C W/P
11/13/2014	Stephen Bretzinger	Neal Truslow	Peter Protopapas, Jo Boyd, Matthew Rosbrugh	A/C
11/13/2014	Pete Nosal, Neal Truslow	Stephen Bretzinger		A/C
11/21/2014	Jo Boyd, Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh	A/C W/P

11/22/2014	Peter Protopapas	Stephen Bretzinger	Jo Boyd, Matthew Rosbrugh	A/C W/P
11/23/2014	Stephen Bretzinger	Peter Protopapas	Jo Boyd, Matthew Rosbrugh	A/C W/P
11/24/2014	Jo Boyd	Stephen Bretzinger	Peter Protopapas, Matthew Rosbrugh	A/C W/P
11/24/2014	Jo Boyd	Stephen Bretzinger	Peter Protopapas, Matthew Rosbrugh	A/C W/P
11/24/2014	Stephen Bretzinger, Lindsay Bretzinger	Neal Truslow	Peter Protopapas, Jo Boyd, Matthew Rosbrugh	A/C
12/1/2014	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh	A/C
12/1/2014	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh	A/C
12/2/2014	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh	A/C W/P
12/2/2014	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh	A/C W/P
12/3/2014	Peter Protopapas	Stephen Bretzinger	Matthew Rosbrugh	A/C W/P
12/5/2014	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh	A/C
12/6/2014	Peter Protopapas	Stephen Bretzinger	Matthew Rosbrugh	A/C
12/8/2014	Stephen Bretzinger	Peter Protopapas		A/C W/P
12/8/2014	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh	A/C W/P

12/9/2014	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh	A/C W/P
12/9/2014	Peter Protopapas	Stephen Bretzinger	Matthew Rosbrugh	A/C W/P
12/14/2014	Peter Protopapas	Stephen Bretzinger	Matthew Rosbrugh	A/C W/P
12/15/2014	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh	A/C W/P
12/15/2014	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh	A/C W/P
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12/16/2014	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh, Jo Boyd	A/C W/P
12/16/2014	Peter Protopapas	Stephen Bretzinger	Matthew Rosbrugh, Jo Boyd	A/C W/P
12/17/2014	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh, Jo Boyd	A/C W/P
12/17/2014	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh	A/C
12/18/2014	Peter Protopapas	Stephen Bretzinger	Jo Boyd, Matthew Rosbrugh	A/C
12/22/2014	Jo Boyd	Stephen Bretzinger		A/C
12/23/2014	Jo Boyd	Stephen Bretzinger		A/C
1/8/2015	Stephen Bretzinger	Peter Protopapas	Jo Boyd	A/C W/P
1/9/2015	Peter Protopapas	Stephen Bretzinger	Jo Boyd	A/C W/P

1/30/2015	Jo Boyd	Stephen Bretzinger	Peter Protopapas	A/C W/P
2/25/2015	Jo Boyd	Stephen Bretzinger		A/C W/P
2/25/2015	Jo Boyd, Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh	A/C W/P
4/20/2015	Jo Boyd, Peter Protopapas	Stephen Bretzinger		A/C
5/8/2015	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh	A/C
5/9/2015	Peter Protopapas, Matthew Rosbrugh, Jo Boyd	Stephen Bretzinger		A/C
5/9/2015	Peter Protopapas, Matthew Rosbrugh	Stephen Bretzinger		A/C
5/13/2015	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh, Jo Boyd	A/C
5/17/2015	Peter Protopapas	Stephen Bretzinger		A/C
5/17/2015	Peter Protopapas	Stephen Bretzinger		A/C
5/24/2015	Peter Protopapas, Jo Boyd	Stephen Bretzinger		A/C
6/9/2015	Peter Protopapas	Stephen Bretzinger		A/C
6/9/2015	Peter Protopapas	Stephen Bretzinger		A/C

6/12/2015	Jo Boyd	Stephen Bretzinger		A/C W/P
6/15/2015	Jo Boyd	Stephen Bretzinger		A/C W/P
6/15/2015	Jo Boyd	Stephen Bretzinger		A/C W/P
6/18/2015	Jo Boyd	Stephen Bretzinger		A/C W/P
7/2/2015	Peter Protopapas	Stephen Bretzinger	Jo Boyd	A/C
7/13/2015	Peter Protopapas, Jo Boyd	Stephen Bretzinger	Stephen Bretzinger	A/C W/P
7/17/2015	Peter Protopapas, Jo Boyd	Stephen Bretzinger		A/C W/P
7/28/2015	Peter Protopapas, Jo Boyd	Stephen Bretzinger		A/C
7/28/2015	Peter Protopapas	Stephen Bretzinger		A/C
7/29/2015	Peter Protopapas	Stephen Bretzinger	Matthew Rosbrugh	A/C
7/30/2015	Peter Protopapas, Matthew Rosbrugh, Jo Boyd	Stephen Bretzinger		A/C
7/30/2015	Stephen Bretzinger	Matthew Bretzinger	Peter Protopapas, Jo Boyd	A/C W/P
7/30/2015	Matthew Rosbrugh	Stephen Bretzinger	Peter Protopapas, Jo Boyd	A/C W/P

7/31/2015	Jo Boyd	Stephen Bretzinger	Matthew Rosbrugh, Peter Protopapas	A/C
7/31/2015	Peter Protopapas, Matthew Rosbrugh, Jo Boyd	Stephen Bretzinger		A/C
7/31/2015	Peter Protopapas, Jo Boyd, Matthew Rosbrugh	Stephen Bretzinger		A/C W/P
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8/3/2015	Peter Protopapas	Stephen Bretzinger	Jo Boyd, Matthew Rosbrugh	A/C W/P
8/3/2015	Peter Protopapas	Stephen Bretzinger	Jo Boyd, Matthew Rosbrugh	A/C W/P
8/3/2015	Peter Protopapas, Jo Boyd	Stephen Bretzinger		A/C
8/3/2015	Stephen Bretzinger	Peter Protopapas	Jo Boyd, Matthew Rosbrugh	A/C
8/3/2015	Stephen Bretzinger	Peter Protopapas	Jo Boyd, Matthew Rosbrugh	A/C W/P
8/3/2015	Stephen Bretzinger	Peter Protopapas	Jo Boyd, Matthew Rosbrugh	A/C W/P
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8/7/2015	Peter Protopapas	Stephen Bretzinger		A/C
8/23/2015	Stephen Bretzinger, Matthew Rosbrugh	Peter Protopapas	Jo Boyd	A/C
8/24/2015	Peter Protopapas	Stephen Bretzinger	Matthew Rosbrugh, Jo Boyd	A/C
8/24/2015	Peter Protopapas	Stephen Bretzinger	Matthew Rosbrugh, Jo Boyd	A/C
8/24/2015	Stephen Bretzinger	Peter Protopapas	Matthew Rosbrugh, Jo Boyd	A/C
8/24/2015	Peter Protopapas	Stephen Bretzinger		A/C
8/25/2015	Peter Protopapas	Stephen Bretzinger	Jo Boyd	A/C
9/1/2015	Peter Protopapas	Stephen Bretzinger	Jo Boyd	A/C
9/21/2015	Peter Protopapas	Stephen Bretzinger		A/C
9/22/2015	Peter Protopapas	Stephen Bretzinger		A/C
9/22/2015	Stephen Bretzinger	Peter Protopapas	Jo Boyd	A/C
12/3/2015	Peter Protopapas	Stephen Bretzinger		A/C
12/3/2015	Peter Protopapas	Stephen Bretzinger		A/C
1/15/2016	Stephen Bretzinger	Peter Protopapas	Jo Boyd	A/C

1/15/2016	Peter Protopapas	Stephen Bretzinger		A/C
1/15/2016	Stephen Bretzinger	Peter Protopapas	Jo Boyd	A/C
1/16/2016	Peter Protopapas	Stephen Bretzinger		A/C
6/20/2016	Peter Protopapas	Stephen Bretzinger		A/C W/P
6/20/2016	Stephen Bretzinger	Peter Protopapas		A/C W/P
6/20/2016	Peter Protopapas	Stephen Bretzinger		A/C W/P
6/20/2016	Peter Protopapas	Stephen Bretzinger		A/C W/P
6/21/2016	Stephen Bretzinger	Peter Protopapas		A/C W/P
6/21/2016	Stephen Bretzinger	Peter Protopapas		A/C
6/30/2016	Peter Protopapas	Stephen Bretzinger		A/C
7/19/2016	Peter Protopapas	Stephen Bretzinger		A/C
7/20/2016	Stephen Bretzinger	Peter Protopapas		A/C
7/22/2016	Peter Protopapas	Stephen Bretzinger		A/C
9/12/2016	Peter Protopapas	Stephen Bretzinger		A/C W/P
9/13/2016	Stephen Bretzinger	Peter Protopapas		A/C

9/13/2016	Peter Protopapas	Stephen Bretzinger		A/C
9/17/2016	Peter Protopapas	Stephen Bretzinger		A/C
9/21/2016	Peter Protopapas	Stephen Bretzinger		A/C
9/21/2016	Stephen Bretzinger	Peter Protopapas		A/C
9/21/2016	Peter Protopapas	Stephen Bretzinger		A/C
9/21/2016	Peter Protopapas	Stephen Bretzinger		A/C W/P
10/3/2016	Peter Protopapas	Stephen Bretzinger	Jo Boyd	A/C
10/5/2016	Jo Boyd	Stephen Bretzinger		A/C

10/14/2015

Check Viewing

Page 1

RIKARD & PROTOPAPAS, LLC HOLTA ACCOUNT 1329 BLANDING STREET COLUMBIA, SC 29201		SOUTHERN FIRST BANK, N.A. 67-801-537		2081
PAY TO THE ORDER OF <u>Stephen Bretzinger and Lindsay Holsinger</u>		\$ <u>**64,534.12</u>		7/31/2015
<u>Sixty-Four Thousand Five Hundred Thirty-Four and 12/100</u>		<u>*****</u>		DOLLARS
Stephen Bretzinger and Lindsay Holsinger 7686 Corkwood Avenue Boynton Beach, FL 33437				B
MEMO		AUTHORIZED SIGNATURE		

FEDERAL RESERVE BOARD OF GOVERNORS REGISTRY		DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE		ENDORSE HERE	
09/04/15 Batch 3, 144		Branch: 379		Seq: 3	
		Batch: 003144		Date: 09/04/15	
					

- \$64,534.12	2081	09082015
---------------	------	----------

508



Rikard & Protopapas, LLC
Attorneys and Counselors at Law

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rgr@rplegalgroup.com

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Post Office Box 5640
Columbia, SC 29250

tel: 803.978.6111
fax: 803.978.6112
web: rplegalgroup.com

DISTRIBUTION AUTHORIZATION

DATE: June 15, 2015

RE: Stephen Bretzinger & Lindsay Holsinger

TOTAL FUNDS RECEIVED FROM BUILDERS INSURANCE.....\$100,000.00

DISBURSEMENTS:

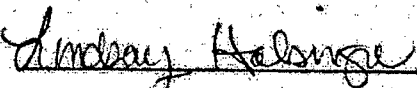
*Amount to be held in trust pending resolution of fee dispute with
Neal Truslow & Peter Nosal **\$33,333.33**

Costs for Truslow & Truslow **\$2,132.55**

Net Amount to (CLIENT).....\$64,534.12


STEPHEN BRETZINGER

DATED: 12/24/15


LINDSAY HOLSINGER

DATED: 07/12/15

AUTHORIZATION TO EXECUTE

We, Stephen Bretzinger and Lindsay Holsinger, do hereby authorize our attorneys, Rikard & Protopapas to execute and deposit the settlement check in the amount of \$100,000 received from from Builders Insurance Group being made payable to us and our attorneys. We authorize our attorneys to sign and deposit check into the trust account of Rikard & Protopapas and to disburse the funds in accordance with the Distribution of Settlement Funds once the check has cleared.

This Authorization is to be used only for the instance set forth in this document.

Dated this 12th day of July, 2015.

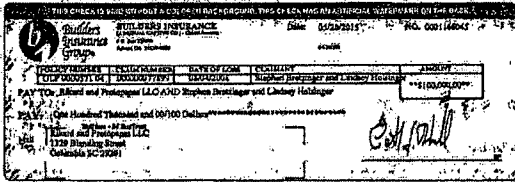

Stephen Bretzinger


Lindsay Holsinger

Image Deposit Report

Batch ID: 46223656
Batch Name: RIKARD AND PROTOPAPAS LLC Jul 14 2015 10:59AM EST
Depositor Name: RIKARD AND PROTOPAPAS LLC
Deposit Account Number: *****5937
Total Amount: \$100,000.00
Total Item Count: 1

Amount: \$100,000.00



U0001166045U T061100790T 8800608302U

THIS CHECK IS VOID WITHOUT A COLORED BACKGROUND. THIS CHECK HAS AN ARTIFICIAL WATERMARK ON THE BACK.

BUILDERS INSURANCE (A MUTUAL CAPTIVE CO.) - Claims Section 50 Box 74 Atlanta, GA 30301		Date: 05/26/2015 NO: 0001166045		
POLICY NUMBER GLP-0000571104	CLAIM NUMBER 000000077899	DATE OF LOSS 08/04/2008	CLAIMANT Stephen Bratzinger and Lindsey Holmgren	AMOUNT **\$100,000.00**
PAY TO: Rikard and Protopapas LLC AND Stephen Bratzinger and Lindsey Holmgren				
PAY: One Hundred Thousand and 00/100 Dollars *****				
Builders 34 Summits Rikard and Protopapas LLC 4529 Blanding Street Columbia, SC 29201				

Defendants Stephen Bretzinger and Lindsey Holsinger's First Set of Requests to Produce
served on March 1, 2017

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
Neal Truslow,	)	Case No.: 2016-CP-40-03728
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANTS STEPHEN
	)	BRETZINGER and LINDSEY
Stephen Bretzinger, Lindsey Holsinger,	)	HOLSINGER'S FIRST SET OF
and Rikard & Protopapas, LLC.	)	REQUESTS TO PRODUCE
	)	
Defendants.	)	

Pursuant to Rule 34, SCRCP, Plaintiff Neal Truslow is hereby requested to produce for inspection and copying the documents described below to counsel for Defendants Stephen Bretzinger and Lindsey Holsinger at the office of The MacClenahan Law Firm, LLC, 223 W. Stone Avenue Greenville, South Carolina 29609, within thirty (30) days of service of this Request.

DEFINITIONS

1. The terms "document" or "documents" have the same meaning as the term "writing and recordings" as defined in the South Carolina Rule of Evidence 1001. The terms include any form of written, recorded, or stored information, whether in the form of paper, audio tape, video tape, magnetic tape, magnetic disk, laser disk, computer, computer component, computer network, computer system, film, email, or other medium of any sort, including e-mails and facsimiles.

2. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the request those documents that may be otherwise construed to be outside of its scope.

3. "Person" means any natural person as well as any business, legal or governmental entity or association.

4. "Communication" means any manner of transmitting or receiving information whether orally, in writing, or otherwise.

5. "Complaint" means the Complaint filed in the above captioned matter on June 16, 2016.

6. The terms "Plaintiff", "you" or "your" shall refer to Plaintiff Neal Truslow, and his attorneys, agents and representatives.

7. The term "Defendants" shall collectively refer to Stephen Bretzinger and Lindsey Holsinger and their attorneys, agents and representatives.

8. "Federal Action" means the lawsuit filed in U.S District Court, District of South Carolina, bearing civil action number: 0:13-CV-02771-JMC.

INSTRUCTIONS

1. If you object to any request on the ground of privilege, state the nature of the privilege. If the objection is made on the basis of attorney-client privilege, identify the attorney, the client, the purpose of the document, the circumstances surrounding the document making it privileged, all persons who have seen the allegedly privileged document, and all persons who received it.

2. If any document is withheld on the basis of attorney-client privilege and/or work-product doctrine, identify, as set forth in the definitions above, the document and state the author of the document, all addressees and other recipients of the document, the basis on which the objection is made, the attorney involved, the client involved, the purpose for which the document was generated, the circumstances which render it

privileged or otherwise immune from production, the use to which it has been put, and all identifiable persons who have had access to the document.

3. If a requested document has ceased to exist, specify for each such document: (a) the type of document; (b) the information contained therein; (c) the date upon which such document ceased to exist; (d) identify each person having knowledge of the circumstances under which the document ceased to exist and each person having knowledge of the document's contents.

4. This request shall be deemed continuing so as to require further and supplemental production if any party receives, discovers or creates additional documents from the time of original production to the time of final judgment in this action.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All documents referencing Defendant Stephen Bretzinger and/or Lindsey Holsinger.

2. A copy of the fee agreement that you contend entitles you to receive payment for legal services.

3. Paragraph 20 of the Complaint alleges that "Nosal & Jeter, LLP has fully and permanently assigned to Plaintiff any and all interest it may have in the funds held by Defendant Protopapas." Produce all documents that memorialize or establish this assignment.

4. Produce any document that supports your claim that Stephen Bretzinger agreed to, or otherwise consented to, settle the Federal Action in the amount of \$100,000.00.

5. Produce any document that supports your claim that Stephen Bretzinger instructed you, or in any way authorized you, to settle the Federal Action in the amount of \$100,000.00.

6. Produce any document that supports your claim that Lindsey Holsinger agreed to, or otherwise consented to, settle the Federal Action in the amount of \$100,000.00.

7. Produce any document that supports your claim that Lindsey Holsinger instructed you, or in any way authorized you, to settle the Federal Action in the amount of \$100,000.00.

8. Produce all correspondence exchanged between you and any of the Defendants, either individually or collectively, relating to this matter or the federal litigation.

This the 1st day of March, 2017.

THE MACCLENAHAN LAW FIRM, LLC



Alexandre N. MacClenahan
SC Bar # 72507
223 W. Stone Avenue
Greenville, SC 29609
864-382-3340/FAX 864-331-3058
alex@macclenahanlaw.com
Attorney for Defendants
Stephen Bretzinger and
Lindsey Holsinger

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow,

Plaintiff,

vs.

Stephen Bretzinger, Lindsey Holsinger,
and Rikard & Protopapas, LLC.

Defendants.

FIFTH JUDICIAL CIRCUIT

IN THE COURT OF COMMON PLEAS

Case No.: 2016-CP-40-03728

Certificate of Service

The undersigned attorney for Defendants Stephen Bretzinger and Lindsey Holsinger hereby certifies that on March 1, 2017 he served a copy of the forgoing **Defendant Stephen Bretzinger and Lindsey Holsinger's First Set of Requests to Produce** via United States Mail, sufficient postage prepaid, addressed to all counsel of record as follows:

Desa Ballard
Ballard & Watson
Post Office Box 6338
West Columbia, South Carolina 29171
desab@desaballard.com

Peter Protopapas
Rikard & Protopapas, LLC
1329 Blanding Street
Columbia, South Carolina 29201
pdp@rplegalgroup.com


Alexandre N. MacClenahan
SC Bar 72507
The MacClenahan Law Firm, LLC
223 W. Stone Avenue
Greenville, SC 29609
864-382-3340/FAX: 864-751-2963
alex@macclenahanlaw.com
Attorney for Defendants
Stephen Bretzinger and
Lindsey Holsinger

Defendants Stephen Bretzinger and Lindsey Holsinger's Responses to Plaintiff's
Interrogatories served on March 20, 2017

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
Neal Truslow,	)	Case No.: 2016-CP-40-03728
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANTS STEPHEN
	)	BRETZINGER and LINDSEY
Stephen Bretzinger, Lindsey Holsinger,	)	HOLSINGER'S RESPONSES to
and Rikard & Protopapas, LLC.	)	PLAINTIFF'S REQUEST
	)	TO PRODUCE
Defendants.	)	

Pursuant to Rule 33 of the SCRCP, Defendants Stephen Bretzinger and Lindsey Holsinger respond to Plaintiff's First Interrogatories as follows:

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

ANSWER: Defendants object to this interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine. Subject to, and without waiving the forgoing objections, Defendants respond as follows:

Neil Truslow – Defendants are unaware of any written or recorded statements from this witness. This witness may have relevant testimony concerning Defendants' claims and defenses in this action.

Lindsay Holsinger – This witness submitted a written affidavit in the prior litigation. She is expected to testify about Defendants' claims and defenses in this action; including but not limited to, her knowledge about Plaintiff's conduct during his representation of Defendants, Plaintiff's failure to obtain Defendants' consent prior to settling the prior litigation, and the dates she learned of the existence of this lawsuit.

Stephen Bretzinger – This witness submitted a written affidavit in the prior litigation. He is expected to testify about Defendants' claims and defenses in this action; including but not limited to, his knowledge about Plaintiff's conduct during his representation of Defendants, Plaintiff's failure to obtain

Defendants' consent prior to settling the prior litigation, and the dates he learned of the existence of this lawsuit.

Peter Protopapas - Defendants are unaware of any written or recorded statements from this witness. This witness may have relevant testimony concerning Defendants' claims and defenses in this action as well as Plaintiff's attempts to serve Defendants.

David Nosal - Defendants are unaware of any written or recorded statements from this witness. This witness may have relevant testimony concerning Defendants' claims and defenses in this action.

James C. Williams, Jr. - Mr. Williams served as the mediator in the prior litigation and may have relevant testimony concerning Defendants' claims and defenses in this action. Defendants are unaware of any written or recorded statements from this witness.

Any witnesses identified by any other party in this litigation.

Defendants reserve the right to supplement this answer as the case progresses.

2. Set forth a list of photographs, plat, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

ANSWER: Defendants object to this interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine. Subject to, and without waiving the forgoing objections, Defendants respond as follows:

Defendants produced all non-privileged/non-protected documents in their response to Plaintiff's Request for Production of Documents.

Defendants reserve the right to supplement this answer as the case progresses

3. List the names and addresses of any witnesses you plan to use to support your claim that you have a meritorious defense to this action.

ANSWER: Defendants object to this interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine. Subject to, and without waiving the forgoing objections, Defendants respond as follows:

See Answer to Interrogatory No. 1 above.

4. For each person known to the parties or counsel to be a witness concerning the service of the summons and complaint, the entry of default, or the existence of a meritorious defense, set forth a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

ANSWER: Defendants object to this interrogatory to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine. Subject to, and without waiving the forgoing objections, Defendants respond as follows:

See Answer to Interrogatory No. 1 above

5. Identify all email addresses used by each of the defendants, both personally and for business use, that you have used at any time since January 1, 2016. As to each:

- a. List all email software and versions presently and previously used by you and the dates of use from January 1, 2016 to the present.
- b. Identify all users you know of who have generated email related to the subject matter of this litigation.
- c. Identify by sender and recipient any and all email messages you know of, including the creation date, the recipient, and the sender, relating to, referencing or relevant to the service of the pleadings in this case and/or a meritorious defense you intend to assert, and provide the substantive content of each. In lieu of providing the substantive content, you may provide a screen shot or copy of each email responsive to this request.

ANSWER: Defendants object to this interrogatory on the grounds that it is overly broad, unduly burdensome harassing, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to subsection (b) on the grounds that it is vague and ambiguous as to what is meant by the term "users" and the specific information being sought. Subject to and without waiving the forgoing objections, Defendants respond as follows:

Defendants use the following e-mail accounts:

Stephen.bretzinger@gmail.com

Lhbretzinger@gmail.com

Defendants use the Apple Mail software on their computers and iOS devices.

Defendants produced a privilege log concerning the responsive documents.

6. Identify each cell phone or portable electronic device used by either of the defendants at any time during since January 1, 2016, and as to each:

- a. Identify the phone number(s) for that device.
- b. Identify the carrier for each telephone and the account number(s) for all accounts which provide service for that device.
- c. If you have changed electronic devices at any time since January 1, 2016, identify the location of the prior electronic device used by you.
- d. Identify all persons or entities with whom you have exchanged or received text messages from at any time since January 1, 2016 relating to, referencing or relevant to the service of the pleadings in this case and/or a meritorious defense you intend to assert.
- e. Identify by date and party(s) the sender and/or recipient, date of the text message and content of each text message that is responsive to this request. In lieu of providing the substantive content, you may provide a screen shot or copy of each email responsive to this request.

ANSWER: Defendants object to this interrogatory on the grounds that it is overly broad, unduly burdensome harassing, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the forgoing objections, Defendants respond as follows

Lindsay Holsinger –	704-402-6229
Stephen Bretzinger –	current device 704-713-5111
	Former device 704-402-9803, this number
	is still active, but the device does not
	function properly.

Defendants use AT&T for their cellular service.

Defendants are in possession of all of the cellular phones they have used since January 1, 2016.

Defendants do not recall having sent or received any text messages responsive to subsections (d) or (e).

This the 20th day of March, 2017.

THE MACCLENAHAN LAW FIRM, LLC



Alexandre N. MacClenahan

SC Bar # 72507

223 W. Stone Avenue

Greenville, SC 29609

864-382-3340/FAX 864-331-3058

alex@macclenahanlaw.com

Attorney for Defendants

Stephen Bretzinger and

Lindsey Holsinger

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow,

Plaintiff,

vs.

Stephen Bretzinger, Lindsey Holsinger,
and Rikard & Protopapas, LLC.

Defendants.

FIFTH JUDICIAL CIRCUIT

IN THE COURT OF COMMON PLEAS

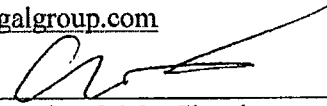
Case No.: 2016-CP-40-03728

Certificate of Service

The undersigned attorney for Defendants Stephen Bretzinger and Lindsey Holsinger hereby certifies that on March 20, 2017 he served a copy of the forgoing **Defendant Stephen Bretzinger and Lindsey Holsinger's Responses to Plaintiff's First Interrogatories** via United States Mail, sufficient postage prepaid, addressed to all counsel of record as follows:

Desa Ballard
Ballard & Watson
Post Office Box 6338
West Columbia, South Carolina 29171
desab@desaballard.com

Peter Protopapas
Rikard & Protopapas, LLC
1329 Blanding Street
Columbia, South Carolina 29201
pdp@rplegalgroup.com


Alexandre N. MacClenahan
SC Bar 72507
The MacClenahan Law Firm, LLC
223 W. Stone Avenue
Greenville, SC 29609
864-382-3340/FAX: 864-751-2963
alex@macclenahanlaw.com
Attorney for Defendants
Stephen Bretzinger and
Lindsey Holsinger

Defendants Stephen Bretzinger and Lindsey Holsinger's Second Supplemental
Responses to Plaintiff's Request to Produce served on March 20, 2017

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
Neal Truslow,	)	Case No.: 2016-CP-40-03728
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANTS STEPHEN
	)	BRETZINGER and
	)	LINDSEY HOLSINGER'S 2nd
Stephen Bretzinger, Lindsey Holsinger,	)	SUPPLEMENTAL RESPONSES
and Rikard & Protopapas, LLC.	)	to PLAINTIFF'S REQUEST
	)	TO PRODUCE
Defendants.	)	

Pursuant to Rule 34 of the SCRCF, Defendants Stephen Bretzinger and Lindsey Holsinger supplement their responses to Plaintiff's Request to Produce as follows:

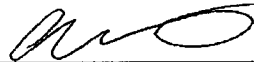
4 Any and all copies of the complaint in this action received by you from any source including any envelope in which the copy was received or email to which the complaint was attached.

RESPONSE: Defendants object to this request to the extent it seeks information protected by the attorney-client privilege and/or work product doctrine. Subject to, and without waiving the forgoing objections, Defendants respond as follows:

Defendants, via counsel, received a copy of the complaint on October 24, 2016. Defendants did not receive any other non-protected/non-privileged documents that are responsive to this request.

This the 20th day of March, 2017.

THE MACCLENAHAN LAW FIRM, LLC



Alexandre N. MacClenahan
 SC Bar # 72507
 223 W. Stone Avenue
 Greenville, SC 29609
 864-382-3340/FAX 864-331-3058
alex@macclenahanlaw.com
 Attorney for Defendants
 Stephen Bretzinger and
 Lindsey Holsinger

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
Neal Truslow,	)	Case No.: 2016-CP-40-03728
	)	
Plaintiff,	)	
	)	Certificate of Service
vs.	)	
	)	
Stephen Bretzinger, Lindsey Holsinger,	)	
and Rikard & Protopapas, LLC.	)	
	)	
Defendants.	)	

The undersigned attorney for Defendants Stephen Bretzinger and Lindsey Holsinger hereby certifies that on March 20, 2017 he served a copy of the forgoing **Defendant Stephen Bretzinger and Lindsey Holsinger's 2nd Supplemental Responses to Plaintiff's Requests to Produce** via United States Mail, sufficient postage prepaid, addressed to all counsel of record as follows:

Desa Ballard
Ballard & Watson
Post Office Box 6338
West Columbia, South Carolina 29171
desab@desaballard.com

Peter Protopapas
Rikard & Protopapas, LLC
1329 Blanding Street
Columbia, South Carolina 29201
pdp@rplegalgroup.com



Alexandre N. MacClenahan
SC Bar 72507
The MacClenahan Law Firm, LLC
223 W. Stone Avenue
Greenville, SC 29609
864-382-3340/FAX: 864-751-2963
alex@macclenahanlaw.com
Attorney for Defendants
Stephen Bretzinger and
Lindsey Holsinger

Plaintiff's Answers to Defendant Stephen Bretzinger and Lindsey Holsinger's First Set of
Requests to Produce served on March 29, 2017

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
)
Case No. 2016-CP-40-03728
)
Neal Truslow)
)
)
Plaintiff)
)
vs.)
)
)
Stephen Bretzinger,)
Lindsey Holsinger, and)
Rikard & Protopapas, LLC)
)
)
Defendants)
)

FIFTH JUDICIAL CIRCUIT

IN THE COURT OF COMMON PLEAS

PLAINTIFF'S ANSWERS TO
DEFENDANTS STEPHEN BRETZINGER
AND LINDSEY HOLSINGER'S FIRST
SET OF REQUESTS TO PRODUCE

Pursuant to Rule 33 of the SCRPC, Plaintiff Neal Truslow respond to Defendants Stephen Bretzinger and Lindsey Holsinger First set of requests to produce as follows:

1. All documents referencing Defendant Stephen Bretzinger and / or Lindsey Holsinger.

Answer: Objection; defendants are in default and all liability issues have been determined. Therefore, this request is irrelevant.

2. Copy of the fee agreement that you contend entitles you to receive payment for legal services.

Answer: Objection; defendants are in default and all liability issues have been determined. Therefore, this request is irrelevant.

3. Paragraph 20 of the complaint alleges that “Nosal & Jeter, LLP has fully and permanently assigned to Plaintiff any and all interest it may have in the funds held by Defendant Protopapas.” Produce all documents that memorialize or establish this assignment.

Answer: Objection; defendants are in default and all liability issues have been determined. Therefore, this request is irrelevant.

4. Produce any document that supports your claim that Stephen Bretzinger agreed to, or otherwise consented to, settle the Federal Action in the amount of \$100,000.00.

Answer: Objection; defendants are in default and all liability issues have been determined. Therefore, this request is irrelevant.

5. Produce any document that supports your claim that Stephen Bretzinger instructed you, or in any way authorized you, to settle the Federal Action in the amount of \$100,000.00.

Answer: Objection; defendants are in default and all liability issues have been determined. Therefore, this request is irrelevant.

6. Produce any document that supports your claim that Lindsey Holsinger agreed to, or otherwise consented to, settle the Federal Action in the amount of \$100,000.00.

Answer: Objection; defendants are in default and all liability issues have been determined. Therefore, this request is irrelevant.

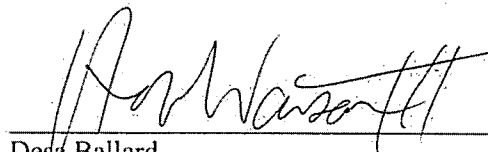
7. Produce any document that supports your claim that Lindsey Holsinger instructed you, or in any way authorized you, to settle the Federal Action in the amount of \$100,000.00.

Answer: Objection; defendants are in default and all liability issues have been determined. Therefore, this request is irrelevant.

8. Produce all correspondence exchanged between you and any of the Defendants, either individually or collectively, relating to this matter or the federal litigation.

Answer: Objection; defendants are in default and all liability issues have been determined. Therefore, this request is irrelevant.

[Signatures next page]



Desa Ballard
Harvey M. Watson III

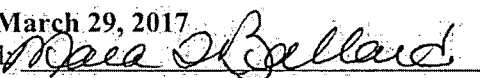
BALLARD & WATSON
P.O. Box 6338
West Columbia, South Carolina 29171
Telephone 803.796.9299
Facsimile 803.796.1066
harvey@desaballard.com

ATTORNEYS FOR PLAINTIFF

March 29, 2017

I, **Mara Ballard**, an employee of the Ballard & Watson Attorneys at Law certify that I have this date served a copy of **Plaintiff's Responses to Defendants Bretzinger and Holsinger Request to Produce** on all counsel of record by depositing a copy properly addressed, with sufficient First Class postage affixed, to each, in the United States Mail.

Date: **March 29, 2017**

Signed 

**Defendants Stephen Bretzinger and Lindsey Holsinger's Third Supplemental Responses
to Plaintiff's Request to Produce served on September 6, 2017**

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
Neal Truslow,	)	Case No.: 2016-CP-40-03728
	)	
Plaintiff,	)	
	)	DEFENDANTS STEPHEN
vs.	)	BRETZINGER and
	)	LINDSEY HOLSINGER'S 3rd
Stephen Bretzinger, Lindsey Holsinger,	)	SUPPLEMENTAL RESPONSES
and Rikard & Protopapas, LLC.	)	to PLAINTIFF'S REQUEST
	)	TO PRODUCE
Defendants.	)	

Pursuant to Rule 34 of the SCRCP and the Court Order entered on August 30, 2017, Defendants Stephen Bretzinger and Lindsey Holsinger supplement their responses to Plaintiff's Request to Produce as follows:

4 Any and all copies of the complaint in this action received by you from any source including any envelope in which the copy was received or email to which the complaint was attached.

RESPONSE:

Defendants received a copy of the Complaint via e-mails from Peter Protopapas dated June 20, 2017 and September 11, 2017. True and accurate copies of the e-mail communications, and the Complaints attached thereto, are hereby served on Plaintiff. On the basis of attorney-client privilege, Defendants redacted communications they had with their current counsel that appear on the top portion of the e-mail chain from September 11, 2016.

This the 6th day of September, 2017.

THE MACCLENAHAN LAW FIRM, LLC



Alexandre N. MacClenahan
 SC Bar # 72507
 223 W. Stone Avenue
 Greenville, SC 29609
 864-382-3340/FAX 864-331-3058
alex@macclenahanlaw.com
 Attorney for Defendants
 Stephen Bretzinger and Lindsey Holsinger

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow,

Plaintiff,

vs.

Stephen Bretzinger, Lindsey Holsinger,
and Rikard & Protopapas, LLC.

Defendants.

FIFTH JUDICIAL CIRCUIT

IN THE COURT OF COMMON PLEAS

Case No.: 2016-CP-40-03728

Certificate of Service

The undersigned attorney for Defendants Stephen Bretzinger and Lindsey Holsinger hereby certifies that on September 6, 2017 he served a copy of the forgoing **Defendant Stephen Bretzinger and Lindsey Holsinger's 3rd Supplemental Responses to Plaintiff's Requests to Produce** via e-mail and United States Mail, sufficient postage prepaid, addressed to all counsel of record as follows:

Desa Ballard
Ballard & Watson
Post Office Box 6338
West Columbia, South Carolina 29171
desab@desaballard.com

Peter Protopapas
Rikard & Protopapas, LLC
1329 Blanding Street
Columbia, South Carolina 29201
pdp@rplegalgroup.com



Alexandre N. MacClenahan
SC Bar 72507
The MacClenahan Law Firm, LLC
223 W. Stone Avenue
Greenville, SC 29609
864-382-3340/FAX: 864-751-2963
alex@macclenahanlaw.com
Attorney for Defendants
Stephen Bretzinger and
Lindsey Holsinger

Peter Protopapas

From: Peter Protopapas
Sent: Monday, June 20, 2016 2:13 PM
To: Stephen Bretzinger
Subject: lawsuit
Attachments: 20160620125144807.pdf

Stephen

Please see the attached and also please advise as to how you wish me to proceed.

Best regards

Peter

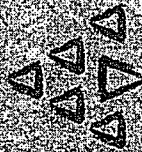
Peter D. Protopapas
RIKARD & PROTOPAPAS, LLC
1329 Blanding Street
Columbia, South Carolina 29201
Telephone: 803.978.6111
Facsimile: 803.978.6112
pdp@rplegalgroup.com

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

From: rikardprotopapaslaw@gmail.com [mailto:rikardprotopapaslaw@gmail.com]
Sent: Monday, June 20, 2016 12:52 PM
To: Jo Boyd <jboyd@rplegalgroup.com>; Peter Protopapas <pdp@rplegalgroup.com>
Subject: Scan from RPLaw Ricoh

This E-mail was sent from "RNP00267378D57F" (MP C3003).

Scan Date: 06.20.2016 12:51:44 (-0400)
Queries to: copier@rplegalgroup.com



Ballard & Watson
Attorneys at Law
PERSISTENT. UNWAVERING.

Desa Ballard
Harvey M. Watson III

Post Office Box 6338 | West Columbia, SC 29171
226 State Street | West Columbia, SC 29169
ph: 803.796.9229 | fx: 803.796.1066 | desaballard.com

June 17, 2016

Via U.S. Mail

Peter Protopapas, Esquire
Rikard & Protopapas, LLC
1329 Blanding Street
Columbia, South Carolina 29201

Re: *Neal Truslow v. Bretzinger et al.*
Case No.: 2016-CP-40-03728

Dear Mr. Protopapas:

Please find enclosed for service upon you, Rikard & Protopapas, LLC, a Summons and Complaint filed recently on behalf of Neal Truslow, Esq. The suit seeks a judicial determination that he is entitled to funds believed to be held in your firm's possession on behalf of Stephen Bretzinger and Lindsey Holsinger. Because those funds are believed to be in your possession, your firm was a necessary party that had to be added to the suit, which I trust you understand. Enclosed for your convenience is an Acceptance of Service form, which we ask that you, or someone duly authorized on behalf of the firm, execute and return to our office at your earliest convenience.

Also enclosed is another Acceptance of Service form, this one indicating that you are authorized to accept service on behalf of Mr. Bretzinger and Ms. Holsinger. If you are able to secure their permission to execute the same, please do so and return that to our office as well. It is our hope that you, or another attorney at your firm, will be authorized to act on their behalf to avoid unnecessary time and expense that would accompany more formal service of process.

If you have any questions please do not hesitate to contact our office. With warm personal regards, I am,

Sincerely yours,

Harvey M. Watson III
harvey@desaballard.com

cc: Neal Truslow, Esquire (via email)

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow

Plaintiff

vs.

Stephen Bretzinger,
Lindsey Holsinger, and
Rikard & Protopapas, LLC

Defendants

FIFTH JUDICIAL CIRCUIT

IN THE COURT OF COMMON PLEAS

Case No. 2016-CP-40-03728

ACCEPTANCE OF SERVICE

I, _____, after being duly authorized by my clients, Stephen Bretzinger and Lindsey Holsinger, do hereby accept service of a filed copy of the Summons and Complaint in the above-captioned matter this _____ day of _____, 2016 pursuant to Rule 4(j), SCRCP.

Columbia, South Carolina

_____, Esquire
Rikard & Protopapas, LLC
1329 Blanding Street
Columbia, South Carolina 29201

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow

Plaintiff

vs.

Stephen Bretzinger,
Lindsey Holsinger, and
Rikard & Protopapas, LLC

Defendants

FIFTH JUDICIAL CIRCUIT

IN THE COURT OF COMMON PLEAS

Case No. 2016-CP-40-03728

ACCEPTANCE OF SERVICE

I, _____, do hereby accept service of a filed copy of the
Summons and Complaint as a duly authorized representative on behalf of Defendant Rikard &
Protopapas, LLC in the above-captioned matter this _____ day of _____, 2016
pursuant to Rule 4(j), SCRCP.

Columbia, South Carolina

Rikard & Protopapas, LLC

By: _____
1329 Blanding Street
Columbia, South Carolina 29201

STATE OF SOUTH CAROLINA

COUNTY OF Richland

Neal Truslow

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

Plaintiff(s)

vs.

Stephen Bretzinger,
Lindsey Holsinger, and
Rikard & Protopapas, LLC

Defendant(s)

Submitted By: Harvey M. Watson III
Address: Post Office Box 6338, West Columbia, SC 29171

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Telephone #: 803.796.9299
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2016-CP -40 - 03728

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|---|
| Contracts | Torts - Professional Malpractice | Torts - Personal Injury | Real Property |
| ☐ Constructions (100) | ☐ Dental Malpractice (200) | ☐ Assault/Slander/Libel (300) | ☐ Claim & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Conversion (310) | ☐ Condemnation (410) |
| ☐ Employment (120) | ☐ Medical Malpractice (220) | ☐ Motor Vehicle Accident (320) | ☐ Foreclosure (420) |
| ☐ General (130) | Previous Notice of Intent Case # | ☐ Premises Liability (330) | ☐ Mechanic's Lien (430) |
| ☒ Breach of Contract (140) | 20 <u>Ni</u> | ☐ Products Liability (340) | ☐ Partition (440) |
| ☐ Other (199) | ☐ Notices/ File-Med Mal (230) | ☐ Personal Injury (350) | ☐ Possession (450) |
| | ☐ Other (299) | ☐ Wrongful Death (360) | ☐ Building Code Violation (460) |
| | | ☐ Other (399) | ☐ Other (499) |
| Inmate Petitions | Administrative Law/Relief | Judgments/Settlements | Appeals |
| ☐ PCR (500) | ☐ Reinstate Div. License (800) | ☐ Death Settlement (700) | ☐ Arbitration (900) |
| ☐ Mandamus (520) | ☐ Judicial Review (810) | ☐ Foreign Judgment (710) | ☐ Magistrate-Civil (910) |
| ☐ Habeas Corpus (530) | ☐ Relief (820) | ☐ Magistrate's Judgment (720) | ☐ Magistrate-Criminal (920) |
| ☐ Other (599) | ☐ Permanent Injunction (830) | ☐ Minor Settlement (730) | ☐ Municipal (930) |
| | ☐ Forfeiture-Petition (840) | ☐ Transcript Judgment (740) | ☐ Probate Court (940) |
| | ☐ Forfeiture-Consent Order (850) | ☐ Lis Pendens (750) | ☐ SCDOT (950) |
| | ☐ Other (899) | ☐ Transfer of Structured Settlement Payment Rights Application (760) | ☐ Worker's Comp (960) |
| Special/Complex/Other | | ☐ Confession of Judgment (770) | ☐ Zoning Board (970) |
| ☐ Environmental (600) | ☐ Pharmaceuticals (630) | ☐ Petition for Workers Compensation Settlement Approval (780) | ☐ Public Service Comm. (990) |
| ☐ Automobile Arb. (610) | ☐ Unfair Trade Practices (640) | ☐ Other (799) | ☐ Employment Security Comm (991) |
| ☐ Medical (620) | ☐ Out-of-State Depositions (650) | | |
| ☐ Other (699) | ☐ Motion to Quash Subpoena in an Out-of-County Action (660) | | |

☐ Sexual Predator (510)

Submitting Party Signature: _____

[Handwritten Signature]

Date: 6-16-16

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow

Plaintiff

vs.

Stephen Bretzinger,
Lindsey Holsinger, and
Rikard & Protopapas, LLC

Defendants

FIFTH JUDICIAL CIRCUIT

IN THE COURT OF COMMON PLEAS

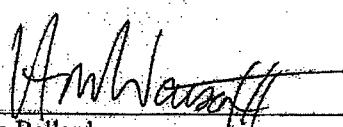
CASE NO.: 2016-CP-40-

SUMMONS

RICHLAND COUNTY
FILED
2016 JUN 16 PM 4:39
JEANETTE M. MCBRIDE
C.C.P. & G.S.

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer to said Complaint on the plaintiff's counsel at his office at P.O. Box 6338, West Columbia, South Carolina 29171, within thirty (30) days after the service hereof, exclusive of the day of service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.


Desa Ballard
Harvey M. Watson III

BALLARD & WATSON
Post Office Box 6338
West Columbia, South Carolina 29171
Telephone 803.796.9299
Facsimile 803.796.1066
desab@desaballard.com
harvey@desaballard.com

ATTORNEYS FOR PLAINTIFF

June 16, 2016

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow

Plaintiff

vs.

Stephen Bretzinger,
Lindsey Holsinger, and
Rikard & Protopapas, LLC

Defendants

FIFTH JUDICIAL CIRCUIT

IN THE COURT OF COMMON PLEAS

Case No. 2016-CP-40 -

COMPLAINT
(Non-Jury)

RICHLAND COUNTY
FILED
2016 JUN 16 PM 4:39
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

The Plaintiff herein, complaining of the Defendants, would respectfully show unto this Honorable Court the following:

1. Plaintiff Neal Truslow is a citizen and resident of Richland County, South Carolina, and engages in the practice of law throughout the state.
2. Defendant Stephen Bretzinger (hereinafter "Bretzinger") is, upon information and belief, a citizen and resident of the State of Florida.
3. Defendant Lindsey Holsinger (hereinafter "Holsinger") is, upon information and belief, a citizen and resident of the State of Florida.
4. Defendant Rikard & Protopapas, LLC (hereinafter "Protopapas") is, upon information and belief, a domestic limited liability company organized and existing under the laws of the State of South Carolina, and is engaged in the practice of law in the State of South Carolina with a principal place of business located in Richland County, South Carolina. This Court has jurisdiction both over the parties hereto and the subject matter herein and venue is proper in Richland County, South Carolina.

FOR A FIRST CAUSE OF ACTION

(Breach of Contract)

5. Bretzinger and Holsinger purchased a home from Crestwood Homes, LLC ("Crestwood") in 2008 in York County, South Carolina. They later sued Crestwood

for alleged defects in the purchased home, and in July 2011 obtained a judgment against Crestwood in the amount of \$876,000.

6. Bretzinger and Holsinger later hired the firm of Nosal & Jeter, LLP via written and signed fee agreement (hereinafter "Fee Agreement"), in February 2013 to pursue collection of that amount from Crestwood and related parties. **Exhibit A.** The Fee Agreement was freely and voluntarily entered, is wholly compliant with state law regarding contracts generally, and consistent with all professional obligations applicable to Plaintiff by virtue of his membership in the South Carolina Bar.
7. As referenced in the Fee Agreement, Plaintiff was associated on the matter and thereafter acted as legal counsel on behalf of Defendants.
8. Following execution of the Fee Agreement, Plaintiff began efforts to collect that sum on behalf of Bretzinger and Holsinger. Those efforts included filing suit in October 2013 in the Federal District Court (Civil Action No. 0:13-cv-02771-JMC).
9. That suit (the "Federal Action") alleged numerous causes of action, including but not limited to: breach of contract, breach of fiduciary duties, negligence, violation of the SC Unfair Trade Practices Act, and to pierce the corporate veil. The defendants in the Federal Action were Crestwood and six individual persons associated with Crestwood.
10. The Federal Action required extensive effort on the part of Plaintiff by way of legal representation and counsel. A motion for summary judgment by the defendants in the Federal Action was defendant and later denied via order dated September 5, 2014.
11. On September 26, 2014, the parties to the Federal Action reached an informal settlement agreement to fully resolve the claims between all parties in exchange for payment from the Federal Action defendants to Bretzinger and Holsinger in the amount¹ of \$100,000.

¹ Settlement offers prior to litigation were for approximately \$1,000. Accordingly, this offer to conclude the Federal Action represented a substantial improvement and significant beneficial result obtained by the efforts of Plaintiff on behalf of Defendants Bretzinger and Holsinger.

12. Defendants Bretzinger and Holsinger later attempted to back out of settlement and reject a more formal settlement agreement that had been prepared to memorialize the informal settlement between the parties to the Federal Action.
13. At that time, Plaintiff sought relief as counsel for Bretzinger and Holsinger in the Federal Action. Defendant Protopapas assumed representation of Bretzinger and Holsinger in November 2014 and remained as counsel through conclusion of the Federal Action.
14. Upon appearance as counsel by Defendant Protopapas, Plaintiff notified Bretzinger, Holsinger, and Protopapas that Plaintiff was asserting a charging lien for attorney's fees and costs against the first \$100,000 of any recovery made by Defendants Bretzinger and Holsinger in connection with the Federal Action, pursuant to the terms of the Fee Agreement.
15. The Federal Action concluded shortly thereafter after a motion to compel settlement filed in November 2014 was ultimately granted by order of the Federal District Court on May 7, 2015. **Exhibit B.**
16. Defendant Protopapas received \$100,000 in payment from the Federal Action defendants on or about June 5, 2015, and subsequently deposited the funds into its firm trust account.
17. Plaintiff contends that he has fully earned, and is immediately owed, an amount of attorney fees equal to 33% of that gross recovery (\$33,000), plus costs incurred in the amount of \$2,132.55, for a total of \$35,132.55 due to him under the terms of the Fee Agreement.
18. Requests to Defendant Protopapas for disbursement in that amount have been denied on the basis of Bretzinger and Holsinger refusing to authorize the release of those funds from trust.
19. Nevertheless, Defendant Protopapas has indicated an amount of funds sufficient to resolve the amounts due as claimed by Plaintiff remains held in its trust account. It remains held in trust pending resolution of competing claims as to entitlement to those

funds, as required by Rule 1.15(e) of the SC Rules of Professional Conduct (Rule 407, SCACR).

20. Nosal & Jeter, LLP has fully and permanently assigned to Plaintiff any and all interest it may have in the funds held by Defendant Protopapas.
21. By their refusal to authorize disbursement of funds held in Defendant Protopapas' trust account to resolve amounts due and owing to Plaintiff, Defendants Bretzinger and Holsinger are in material breach of their obligations under the terms of the Fee Agreement.
22. Plaintiff has suffered damages as a direct and proximate result of that breach. Damages are in the amount of earned fees and costs wrongfully denied to them, plus interest therein, in addition to fees and costs incurred by Plaintiff associated with efforts to secure release of the funds held in trust, including those associated with this legal action.
23. Plaintiff is therefore informed and believe he is entitled to judgment against Defendants Bretzinger and Holsinger in an amount equal to \$35,132.55, plus costs associated with this action.
24. Further, Plaintiff is informed and believes that judgment against Defendants Bretzinger and Holsinger should include a directive to Defendant Protopapas to release an amount equal to \$35,132.55 from funds held on behalf of Defendants Bretzinger and Holsinger in his trust account as necessary and appropriate specific performance under the terms provided by the Fee Agreement that has been breached.

WHEREFORE, Plaintiff prays for an Order of this Court:

- A. For judgment in favor of Plaintiff against Defendants Bretzinger and Holsinger in the amount of
 - (i) \$35,132.55, representing combined attorney fees and reimbursement costs under the terms of the subject Fee Agreement, together with
 - (ii) fees and costs incurred in this action;

- B. Directing that Defendant Rikard and Protopapas disburse the amount of \$35,132.55 plus awarded fees and costs from any funds held in its trust account on behalf of Defendants Bretzinger and Holsinger to resolve amounts owed by Defendants Bretzinger and Holsinger;
- C. Providing for such other and further relief as the Court may deem appropriate.

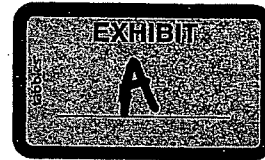


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ATTORNEYS FOR PLAINTIFF

June 16, 2016



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thomas@nosaljeterlaw.com
(Licensed in N.C.)

LEGAL SERVICES AGREEMENT

1. **IDENTIFICATION OF PARTIES.** This agreement is made between Nosal & Jeter, LLP, hereafter referred to as "Law Firm," and Stephen Bretzinger and Lindsay Holsinger hereafter referred to as "Client."

2. **LEGAL SERVICES TO BE PROVIDED.** The legal services to be provided by Law Firm to Client are limited to the following: Representation of Client to assist in collection of \$876,250.00 Judgment.

3. **RESPONSIBILITIES OF ATTORNEY AND CLIENT.** Law Firm will perform the legal services called for under this agreement, keep Client informed of progress and developments, and respond promptly to Client's inquiries and communications. Client will be truthful and cooperative with Law Firm; keep Law Firm reasonably informed of developments and of Client's address, telephone numbers and whereabouts; and timely make any payments required by this agreement.

4. **LAW FIRM MAY ASSOCIATE OUTSIDE COUNSEL.** Client agrees Law Firm may associate with other firms to perform representation for their case. Law Firm will associate Truslow and Truslow, PA to assist with all litigation.

5. **ATTORNEY'S FEES.** Client will pay Law Firm for attorney's fees for the legal services provided under this agreement at the respective hourly rates. The rates fall within the following ranges:

ATTORNEY RATES – Client has elected to enter into a contingency contract for these services. The attorney's fee will be 33% of any gross amount collected prior to the deduction of costs. No promises or guarantees of any financial recovery have been made regarding this claim. However, even if there is no pecuniary award or settlement, Client agrees to reimburse all agreed upon costs expended in this case. Attorney(s) agree to consult with client prior to agreeing to any abnormal costs. Normal "costs" include court filing fees, medical record charges, shipping charges, and deposition/ discovery charges. In the event that other attorneys participate in this

case, it is agreed that there will be no additional legal fees charged to Client. Any ultimate attorney fee generated will be shared equally amongst attorneys.

6. **COSTS.** Client will pay all "costs" in connection with Law Firm's representation of Client under this agreement. Costs will be advanced by Law Firm and then billed to Client unless the costs can be met out of client deposits that are applicable toward costs. Costs include, but are not limited to, court filing fees; deposition costs, expert fees and expenses, investigation costs, postage, shipping charges, long-distance telephone charges, messenger service fees, photocopying expenses, legal research costs (i.e. Westlaw), and process server fees.

7. **RETAINER.** Client will pay to Law Firm an initial retainer of \$00.00, which will be deposited into Law Firm trust account and is not subject to refund, unless required to be refunded by the Rules of Professional Conduct. Law Firm will bill against this amount at the hourly rates provided for herein. Client authorizes Law Firm to withdraw the principal from the trust account to pay attorney's fees as they are incurred by Client. If, at the termination of services under this agreement, the total amount incurred by Client for attorney's fees is less than the amount of any funds held in trust the difference will be refunded to Client.

Law Firm will notify Client whenever the full amount of any deposit has been applied to attorney's fees incurred by Client. Within 15 days after each notification is mailed, Client will pay to Law Firm an additional deposit in the same amount as the initial one. Client authorizes Law Firm to withdraw the principal from the trust account to pay attorney's fees as they are incurred by Client. Such additional deposits will be fully refundable. If, at the termination of services under this agreement, there have been two or more deposits and the total amount incurred by Client for attorney's fees is less than the total amount of all deposits, the difference will be refunded to Client.

8. **STATEMENTS AND PAYMENTS.** Law Firm will send Client monthly statements indicating attorney's fees and costs incurred and their basis, any amounts applied from deposits, and any current balance owed. If no attorney's fees or costs are incurred for a particular month, or if they are minimal, the statement may be held and combined with that for the following month. Any balance will be paid in full within 30 days after the statement is mailed.

9. **GOVERNING LAW.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of South Carolina. The section headings contained herein are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

10. **DISPUTE RESOLUTION.** Any dispute, controversy or claim arising out of or in connection with, or relating to, this Agreement or any breach or alleged breach hereof shall, upon the request of any party involved, be submitted to, and settled by, arbitration in the City of Rock Hill, SC.

11. **NON-ASSIGNABLE.** The rights and duties as contained herein shall not be transferable or assignable by the parties.

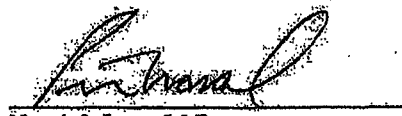
12. ENTIRE AGREEMENT. This agreement is the entire agreement among the parties with respect to the subject matter hereof, and no representations or covenants, whether oral or written, have been made regarding the subject matter hereof except as expressly provided herein.

This the 4th day of February, 2013.

The foregoing is agreed to by:


Stephen Bretzinger


Lindsay Holzinger


Nosal & Jeter, LLP
By: Peter J. Nosal

Truslow & Truslow, PA
Post Office Box 1465
Columbia, SC 29202-1465

www.truslowlaw.com

Ph: (803) 256-6276

Fax: (803) 256-7659

Stephen Bretzinger
2879 Highway 160 W 4322
Fort Mill, SC
29708

September 18, 2014

File #: 13-003

Inv #: 1841

Attention: Peter Nosal

Please remit payment within ten (10) days or contact us
within ten (10) days to arrange a payment plan.

RE: Bretzinger vs. Crestwood Homes et al

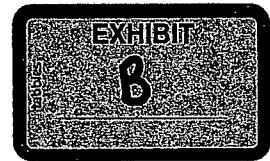
DISBURSEMENTS

	Filing Fee	\$400.00
	Photocopies	\$466.80
	Postage	\$184.27
3/26/13	USDC Pacer Copies	\$73.90
	SC Secretary of State	\$3.50
10/25/13	NC Secretary of State Process Fee	\$10.00
11/15/13	Process Service and Skip Trace	\$314.00
12/16/13	Process Service and Skip Trace	\$442.00
12/17/13	Memorandum Binding and Copies	\$21.70
5/27/14	Mileage - travel to/from property - 154.4 miles	\$86.46
8/27/14	Mileage - travel to/from Anderson for Mediation - 232 miles	\$129.92
	Total	\$2,132.55

Total Fee & Disbursements \$2,132.55

Balance Now Due **\$2,132.55**

For your convenience we accept Visa, MasterCard, and Discover.



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Stephen Bretzinger and Lindsey Holsinger,)

Civil Action No. 0:13-cv-02771-JMC

Plaintiffs,)

v.)

Crestwood Homes, LLC d/b/a Scenic)
Homes, Paul Meng, James Ray, Reggie)
Lee McGaugh, Susan Meng, Mary Beth)
McGaugh, and Susan Ray,)

ORDER AND OPINION

Defendants.)

Plaintiffs Stephen Bretzinger and Lindsey Holsinger (collectively "Plaintiffs") filed this action seeking damages from Defendants Crestwood Homes, LLC d/b/a Scenic Homes, Paul Meng, James Ray, Reggie Lee McGaugh, Susan Meng, Mary Beth McGaugh, and Susan Ray (collectively "Defendants") resulting from their construction and sale to Plaintiffs of an allegedly defective house located at 2055 Covered Bridge Court, York County, South Carolina (the "Property"). (ECF No. 1.) Plaintiffs assert claims under state law against Defendants for breach of contract to construct an improvement to real property, breach of fiduciary duties, breach of the implied covenant of good faith and fair dealing, fraud, breach of contract accompanied by a fraudulent act, negligent misrepresentation, violation of the South Carolina Unfair Trade Practices Act, S.C. Code Ann. §§ 39-5-10 to -560 (1985 & Supp. 2011), fraudulent conveyance, unjust enrichment, civil conspiracy, breach of warranty, negligent construction, negligence per se, gross negligence, rescission, to void a contract for unconscionability, aiding and abetting wrongdoing, to pierce the corporate veil, and to collect on a judgment. (*Id.* at 7-22.)

This matter is before the court pursuant to Defendants' Motion to Enforce Settlement Agreement. (ECF No. 55.) Plaintiffs oppose the pending Motion to Enforce Settlement. (ECF

No. 62.) For the reasons set forth below, the court **GRANTS** Defendants' Motion to Enforce Settlement.

I. RELEVANT BACKGROUND TO PENDING MOTION

The following relevant facts taken from the complaint are assumed to be true only for the purposes of the pending motion. Crestwood Homes, LLC ("Crestwood") is an "association of persons" that includes "Individual Defendants" Paul Meng, James Ray, Reggie Lee McGaugh, Susan Meng, Mary Beth McGaugh, and Susan Ray. (ECF No. 1 at 6 ¶ 44.) This action arises from a course of events that allegedly resulted in Plaintiffs entering into a residential contract with Crestwood on or about June 28, 2008 to purchase the Property. (*Id.* at 3 ¶ 24.) After closing on and receiving title to the Property, Plaintiffs became aware of specified defects in the Property. (*Id.* at 4 ¶¶ 27-28.) Plaintiffs allege that after they provided notice of the defects in the Property to Crestwood, it failed to remedy said defects in the Property thereby resulting in the Property sustaining significant additional damage. (*Id.* at 4 ¶ 29, 5 ¶¶ 31-32.)

On July 29, 2010, Plaintiffs filed a lawsuit against Crestwood in the York County (South Carolina) Court of Common Pleas. (ECF No. 1-2.) Crestwood did not answer or otherwise respond to the lawsuit. After entering default against Crestwood on or about January 18, 2011, the state court entered judgment for Plaintiffs on July 8, 2011 in the amount of \$876,000.00 against Crestwood. (ECF No. 1-4.)

Thereafter, on October 10, 2013, Plaintiffs filed a Complaint in this court alleging the aforementioned causes of action against Defendants. (ECF No. 1.) On November 5, 2013, Crestwood answered the Complaint generally denying its allegations. (ECF No. 9.) On November 18, 2013, Individual Defendants filed Motions to Dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(2). (ECF No. 16.) On September 5, 2014, the court denied

without prejudice Individual Defendants' Motions to Dismiss with leave to re-file after a period of limited jurisdictional discovery. (ECF No. 44.)

On September 26, 2014, the parties allegedly reached an agreement for the complete and final resolution and settlement of this case (the "Settlement Agreement"). (See ECF No. 55-1 at 5 ("They [Plaintiffs] accept and will settle for \$100,000.00" in exchange for a global release).) The Settlement Agreement and essential terms of the same were memorialized using the following language in an e-mail sent by Plaintiffs' counsel of record, Neal Truslow ("Truslow"), to Defendants' counsel on September 29, 2014:

To confirm the status of where we are:

Defendants have offered, and Plaintiffs have accepted, a \$100,000 (gross) global settlement to resolve this case. Defendants are drafting a full, final and complete release from Plaintiffs that ends litigation upon payment. This settlement shall be a final settlement of all claims – past, present, or future – by Plaintiffs against any/all Defendants (or associated entities, heirs, assigns, etc.) in this action, and specifically includes the prior State court action and this Federal action. Essentially, anything to do with the house in York County will be covered by this action. To the extent Plaintiffs have enrolled this judgment in any jurisdiction, they will say that same is satisfied, dissolved or otherwise abandoned. This is standard language included in any release, to my understanding.

(Id. at 2.) On or about October 7, 2014, Defendants' counsel prepared more formal settlement and release documents and provided the same to Plaintiffs' counsel. (ECF No. 55-2 at 3.) On October 29, 2014, Plaintiffs' counsel informed Defendants' counsel that Plaintiffs "desire[d] to nullify the settlement" and dismiss the case without prejudice. (ECF No. 55-3 at 2.)

On November 5, 2014, Defendants filed the instant Motion to Enforce Settlement. (ECF No. 55.) Plaintiffs filed their Response in Opposition to Defendants' Motion to Enforce Settlement on November 24, 2014. (ECF No. 62.) On December 9, 2014, the court heard argument from the parties on the pending Motion to Enforce Settlement. (ECF No. 71.)

II. LEGAL STANDARD AND ANALYSIS

A. Standard for Enforcing Settlement

“Settlement agreements are matters of contract law, and contract law principles apply.” Patel v. Barot, 15 F. Supp. 3d 648, 653 (E.D. Va. 2014). “Because exercise of the authority to enforce settlement agreements depends on the parties’ agreement to a complete settlement, the court cannot enforce a settlement until it concludes that a complete agreement has been reached and determines the terms and conditions of that agreement.” Hensley v. Alcon Labs., Inc., 277 F.3d 535, 540 (4th Cir. 2002) (citing Ozyagcilar v. Davis, 701 F.2d 306, 308 (4th Cir. 1983)). Therefore, “to exercise its inherent power to enforce a settlement agreement, a district court (1) must find that the parties reached a complete agreement and (2) must be able to determine its terms and conditions.” Id. at 540–41 (citing Moore v. Beaufort Cnty., 936 F.2d 159, 162 (4th Cir. 1991); Ozyagcilar v. Davis, 701 F.2d 306, 308 (4th Cir. 1983)). Accordingly, “if an agreement for complete settlement of the underlying litigation, or part of it, has been reached and its terms and conditions can be determined, the court may enforce the agreement summarily as long as the excuse for nonperformance of the agreement is ‘comparatively insubstantial.’” Id. at 540 (quoting Millner v. Norfolk & W. Ry. Co., 643 F.2d 1005, 1009 (4th Cir. 1981)). However, “[i]f there is a factual dispute over the existence of an agreement, over the authority of attorneys to enter into the agreement, or over the agreement’s terms, the district court may not enforce a settlement agreement summarily,” and it must instead conduct a hearing in order to resolve that dispute and make factual findings. Id. at 541 (citations omitted).

B. The Parties’ Arguments

1. *Defendants*

Defendants move the court to enforce an alleged settlement with Plaintiffs containing the

following terms and conditions:

Defendants have offered, and Plaintiffs have accepted, a \$100,000 (gross) global settlement to resolve this case. Defendants are drafting a full, final and complete release from Plaintiffs that ends litigation upon payment. This settlement shall be a final settlement of all claims – past, present, or future – by Plaintiffs against any/all Defendants (or associated entities, heirs, assigns, etc.) in this action, and specifically includes the prior State court action and this Federal action. Essentially, anything to do with the house in York County will be covered by this action. To the extent Plaintiffs have enrolled this judgment in any jurisdiction, they will say that same is satisfied, dissolved or otherwise abandoned. This is standard language included in any release, to my understanding.

(ECF No. 55-1 at 2.) In support of their Motion to Enforce Settlement, Defendants argue that Plaintiffs' counsel "irrefutably confirmed the clear and ambiguous terms of the [S]ettlement [A]greement," and the acts of an attorney are binding on the client. (ECF No. 55 at 1, 3 (citing Sadighi v. Daghighfekr, 66 F. Supp. 2d 752, 761 (D.S.C. 1999) (citation omitted)).) Defendants further argue that "[t]he writings between counsel of record in this case unequivocally demonstrate that: (1) the parties reached a complete agreement; and (2) the writings set forth the essential terms and conditions of the Settlement Agreement." (ECF No. 55 at 3.) As a result, "Plaintiffs are bound by the actions of their attorneys" and the "Settlement Agreement is binding and enforceable upon the Plaintiffs." (*Id.* at 3-4.) Based on the foregoing, Defendants request that the court enforce the Settlement Agreement and dismiss this action. (*Id.* at 4.)

2. Plaintiffs

Plaintiffs oppose the Motion to Enforce Settlement asserting that it should be denied because the emails attached to Defendants' motion only "demonstrate that there was no commitment [to a settlement] and that critical terms were to be negotiated prior to any commitment." (ECF No. 62 at 1.) Plaintiffs next assert that their counsel "did not have authority to bind either of the Plaintiffs to a settlement agreement" or "forfeit an outstanding State Court judgment against the Defendants." (*Id.* at 7.) Finally, Plaintiffs assert that Defendants' evidence

does not support a finding that Plaintiffs displayed the intent “to be bound to any purported settlement.” (*Id.* at 8.) As a result, Plaintiffs beseech the court to deny Defendants’ Motion to Enforce Settlement. (*Id.*)

C. The Court’s Review

Upon consideration of the parties’ arguments, the court finds that the terms of the parties’ alleged settlement are clearly set forth in the parties’ exhibits¹ and, therefore, the court should enforce the settlement unless it determines that the parties failed to reach a complete agreement. As to this issue, Plaintiffs argue that their counsel did not have either actual authority or apparent authority to settle the matter. (ECF No. 62 at 7.) As support for their argument, Plaintiffs submitted affidavits, which specifically stated that their attorneys were not authorized to settle the case (ECF Nos. 62-4 & 62-5), and cited to Rule 43(k), SCRCP, which rule provides that “[n]o agreement between counsel affecting the proceedings in an action shall be binding unless reduced to the form of a consent order or written stipulation signed by counsel and entered in the record, or unless made in open court and noted upon the record, or reduced to writing and signed by the parties and their counsel.”

In assessing the merits of Plaintiffs’ argument, the court observes that an attorney’s “authority to negotiate” on behalf of his client “is far different from the authority to agree to a specific settlement.” *Auvil v. Grafton Homes, Inc.*, 92 F.3d 226, 231 (4th Cir. 1996). “It is generally accepted that when a client retains an attorney to represent him in litigation, absent an express agreement to the contrary, the attorney has implied authority to conduct the litigation and to negotiate its resolution.” *Id.* at 229–230. Moreover, under South Carolina law, absent fraud or mistake, counsel of record has the authority to settle litigation on behalf of their client.

¹ Defendants will pay \$100,000.00 to Plaintiffs in exchange for a full release of all claims. (ECF No. 55-1 at 2.)

Arnold v. Yarborough, 316 S.E.2d 416, 417 (S.C. Ct. App. 1984) (“Acts of an attorney are directly attributable to and binding upon the client.”) (Citation omitted); see also Poore v. Poore, 89 S.E. 569, 571 (S.C. 1916) (“It will never do, in the absence of fraud, to allow the undoubted attorneys of record for a party to a suit to enter into a solemn agreement to settle and adjust the issues and subject-matter of a suit and then later, if it is done, because for any reason the party is dissatisfied, to allow him to repudiate this agreement and employ different counsel to upset and set aside what his first counsel has done.”).

Upon review, the court finds that Truslow, Plaintiffs’ attorney of record, bound Plaintiffs when he stated his acknowledgement to the agreed upon terms of the settlement.² (See ECF No. 55-1 at 2 (“To confirm the status of where we are: Defendants have offered, and Plaintiffs have accepted, a \$100,000 (gross) global settlement to resolve this case . . . I’ll be sure to consent [to a stipulation of dismissal] once we’ve got funds and you’ve got a signed release.”).) Under South Carolina law, Truslow’s actions bind Plaintiffs since there has not been a showing of fraud. Arnold, 316 S.E. 2d at 417 (“Litigants must necessarily be held bound by the acts of their attorneys in the conduct of a cause in court, in the absence, of course, of fraud.”) (Citation omitted). In this regard, neither Plaintiffs’ affidavits nor Rule 43(k), SCRCP, require the court to find otherwise. See, e.g., Surety Ins. Co. of Cal. v. Williams, 729 F.2d 581, 583 (8th Cir. 1984) (“We think that in meeting that burden the Williamses may not rely on their conclusory affidavit,

² There were communications relevant to the settlement made by an attorney, Peter Nosal, who was not counsel of record for Plaintiffs in this matter. (See, e.g., ECF No. 55-1 at 4 (“I understand your concerns. I have explained to them that the settlement will be contingent of a full release of any and all claims against all defendants. Pete.”) & 5 (“They accept and will settle for \$100,000.00. They have some concerns about the language in the release, but I am confident we can work that out. Pete.”).) The court does not rely on Nosal’s communications to establish Plaintiffs’ agreement to settle the matter. See, e.g., Andrulonis v. United States, No. 79-CV-847, 1995 WL 46331, at 2 (N.D.N.Y. Jan. 25, 1995) (“First, the court holds that no binding settlement agreement existed. Attorney Buskus was not the attorney of record in the district court, and counsel for the United States should have realized that agreement of the counsel of record was required before a settlement became binding.”).

but must establish through competent evidence that their attorney lacked actual, implied, or apparent authority to stipulate to an entry of judgment.”); Nationwide Mut. Ins. Co. v. Ruff, C/A No. 0:11-1011-CMC, 2011 WL 2491345, at *3 (D.S.C. June 22, 2011) (“[T]he South Carolina Rules of Civil Procedure govern actions brought in South Carolina courts, not federal courts, ...”); United States v. Hemmons, 774 F. Supp. 346, 350 (E.D. Pa. 1991) (“State rules of civil procedure do not apply in a federal court.”) (citing, e.g., U.S. Const. art. IV). Accordingly, the court concludes that the parties did reach a complete agreement to settle this matter, and the terms of that agreement are clearly discernible from the record.

III. CONCLUSION

For the reasons set forth above, the court hereby **GRANTS** Defendants’ Motion to Enforce Settlement Agreement. (ECF No. 55.) The court further **ORDERS** the parties to fulfill their obligations under the Settlement Agreement within 30 days of the date of entry of this Order. This action is hereby **DISMISSED**.

IT IS SO ORDERED.



United States District Judge

May 7, 2015
Columbia, South Carolina

From: Stephen Bretzinger stephen.bretzinger@gmail.com 
Subject: Fwd: service by publication
Date: February 27, 2017 at 10:37 PM
To: Alex MacClenahan alex@macclenahanlaw.com



**REDACTED COMMUNICATION BETWEEN
CLIENT and MacCLENAHAN LAW FIRM, LLC**

Forwarded conversation

Subject: service by publication

From: Peter Protopapas <pdp@rlegalgroup.com>
Date: Sun, Sep 11, 2016 at 11:02 AM
To: Stephen Bretzinger <stephen.bretzinger@gmail.com>

They have filed their motion for service by publication.

Peter

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

From: rikardprotopapaslaw@gmail.com [mailto:rikardprotopapaslaw@gmail.com]
Sent: Friday, September 09, 2016 3:00 PM
To: Jo Boyd <jboyd@rlegalgroup.com>; Peter Protopapas <pdp@rlegalgroup.com>
Subject: Scan from RPLaw Ricoh

This E-mail was sent from "RNP00267378D57F" (MP C3003).

Scan Date: 09.09.2016 15:00:03 (-0400)
Queries to: copier@rlegalgroup.com

> <20160909150003310.pdf>



201609091500
03310.pdf



Ballard & Watson
Attorneys at Law
PERSISTENT. UNWAVERING.

Desa Ballard
Harvey M. Watson III

Post Office Box 6338 | West Columbia, SC 29171
226 State Street | West Columbia, SC 29169
ph 803.796.9299 | fx 803.796.1066 | desaballard.com

September 8, 2016

Via U.S. Mail

Richland County Clerk of Court
Judicial Center, 1701 Main Street
Post Office Box 2766
Columbia, South Carolina 29202

Re: *Neal Truslow (Bretzinger)*
Case No: 2016-CP-40-03728

Dear Ms. McBride:

Please find enclosed for filing an original and one copy a Motion for Service by Publication with Certificate of Service for the above-referenced matter. Also enclosed for filing is an original and one copy of an Affidavit of Mara Ballard (with Exhibits A and B attached) in support of that motion.

We have also prepared a Proposed Order for Service by Publication in the event the motion and supporting documentation are deemed sufficient to authorize service of process via publication in this matter. If the proposed order is acceptable in its current form, please sign and date both copies that have been provided before returning filed copies of all three documents to our office via the enclosed self-addressed, stamped envelope.

If you should have any questions, please feel free to contact my office and we will be glad to assist however necessary. With kindest regards, I am,

Sincerely yours,

Harvey M. Watson III
harvey@desaballard.com

cc: Peter Protopapas, Esquire
Stephen Bretzinger
Lindsey Holsinger
Neal Truslow, Esquire (via email only)

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow,

Plaintiff,

vs.

Stephen Bretzinger,
Lindsey Holsinger, and
Rikard & Protopapas, LLC

Defendant.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-03728

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney:

Harvey M. Watson III, Bar No. 74053
Address:
Post Office Box 6338, West Columbia, SC
29171
Phone: 803.796.9299 Fax 803.796.1066
E-mail: harvey@desaballard.com Other:
service@desaballard.com

Defendant's Attorney:

Peter Protopapas, Bar No. 68304
Address:
Post Office Box 5640, Columbia, SC 29250
Phone: 803.978.6111 Fax _____
E-mail: pdp@rplegalgroup.com Other: _____

Stephen Bretzinger and Lindsey Holsinger *Pro Se*
7686 Corkwood Avenue
Boynton Beach, FL 33437

- ☐ 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: _____

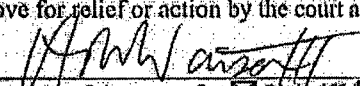
Estimated Time Needed: _____

Court Reporter Needed: ☐ YES / ☐ NO

SECTION II: Motion/Order Type

- ☒ Written motion attached
☐ Form Motion/Order

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


Signature of Attorney for ☒ Plaintiff / ☐ Defendant

September 8, 2016
Date submitted

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: \$ _____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow

Plaintiff,

vs.

Stephen Bretzinger,
Lindsey Holsinger, and
Rikard & Protopapas, LLC

Defendant.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-40-03728

**MOTION FOR SERVICE
BY PUBLICATION**

The undersigned, as counsel for Plaintiff, moves this Court for an Order for Service by Publication as to the Defendants Stephen Bretzinger and Lindsey Holsinger, jointly and severally pursuant to South Carolina Code of Laws, §15-9-710. Plaintiff shows the following in support of the Motion:

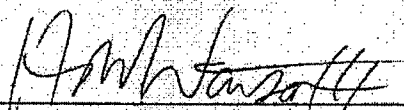
1. The Defendant(s) Stephen Bretzinger and Lindsey Holsinger cannot, after due diligence, be found within the State of South Carolina.
2. A cause of action exists against Defendant(s) Stephen Bretzinger and Lindsey Holsinger because of their claimed interest in disputed funds currently held in a lawyer's trust account in South Carolina by Defendant Rikard & Protopapas.
3. A copy of the Summons and Complaint in the above-captioned matter, which more particular describes the claim made and relevant parties, is attached hereto and incorporated herein by reference.
4. The Defendants Stephen Bretzinger and Lindsey Holsinger are necessary and proper parties to this action.
5. Attached to this motion is the Affidavit of Mara Ballard which includes documents

showing attempted Service provided by the Palm Beach County Sheriff's Office and United Parcel Service (UPS), a commercial delivery service. Neither means of service were successful.

6. Service by publication is therefore justified and authorized pursuant to S.C. Code § 15-9-710(4) and (5).¹

WHEREFORE, the Plaintiff prays that the Court allow service upon Stephen Bretzinger and Lindsey Holsinger by way of publication, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,


Harvey M. Watson III

BALLARD & WATSON
226 State Street (29169)
Post Office Box 6338
West Columbia, South Carolina 29171
(T) 803.796.9299
(F) 803.796.1066
harvey@desaballard.com

ATTORNEY FOR THE PLAINTIFF

September 8, 2016

¹ S.C. Code § 15-3-710;

(4) when the defendant is not a resident of this State but has property therein and the court has jurisdiction of the subject of the action;

(5) when the subject of the action is real or personal property in this State and the defendant has or claims a lien or interest, actual or contingent, therein or the relief demanded consists wholly or partly in excluding the defendant from any interest or lien therein;

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow,

Plaintiff,

vs.

Stephen Bretzinger,
Lindsey Holsinger, and
Rikard & Protopapas, LLC

Defendant.

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-03728

**AFFIDAVIT OF
MARA BALLARD**

Personally appeared before me, Mara Ballard, being duly sworn, deposes and says:

1. I am over the age of eighteen (18) years and am competent to state the matters set forth herein. I have personal knowledge of the matters stated, except as to those matters stated upon information and belief, and as to those, I have a good faith basis for believing them to be true.
2. I am an employee of the law firm Ballard & Watson, who represent the Plaintiff Truslow in the above-captioned action.
3. Upon information and belief, the Defendants Bretzinger and Holsinger live at 7686 Corkwood Ave., Boynton Beach, Florida. That address is located in the county of Palm Beach.
4. On June 30, 2016, I forwarded two copies of the filed Summons and Complaint in this action to the Palm Beach County Sheriff's Department, together with the appropriate fee, for personal service upon Defendants Bretzinger and Holsinger.



5. On or about August 5, 2016, the Palm Beach County Sheriff's Department returned copies of the Summons and Complaint with their completed form, captioned as "Palm Beach County Sheriff's Office Original Return." Exhibit A. That form provides details regarding the eight (8) attempts made at personal service by the sheriff's department. There was a form for both Defendant Bretzinger and Defendant Holsinger.
6. The enclosed forms contain information from Officer O'Rourke,¹ the signatory on the form, wherein he notes witnessed activity that suggests Defendants may be avoiding service of process.
7. Relying upon information from Officer O'Rourke that Defendant Holsinger had picked up a UPS package, I prepared two UPS Overnight delivery packages, each containing a cover letter and a copy of the filed Summons and Complaint. I purchased a restriction on the delivery to require adult signature upon delivery. The tracking numbers for these packages were 1ZF6997AA492807820 (Holsinger) and 1ZF6697AA490539212 (Bretzinger).
8. I placed the UPS packages in the UPS drop box located at the Bank of America Building (440 Knox Abbott Dr. Cayce, SC) on the evening of August 17, 2016, prior to the last published pick up time for that location.
9. Attached as Exhibit B are the UPS tracking information sheets for both packages. As noted, four attempts were made to deliver the overnight packages, without success.

¹ Dennis O'Rourke, Badge Number 7505.

The packages were returned to me by UPS on August 29, 2016, and I received them on August 31, 2016.

10. I have located a newspaper in Palm Beach County, the SunSentinel, which would be suitable for service and be most likely to give notice to the Defendants to be served.

Further affiant sayeth not.


Mara T. Ballard, CFP®, CMA

September 8, 2016

SWORN to and Subscribed before me,
This 8th day of September, 2016

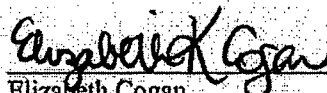

Elizabeth Cogan
Notary Public for South Carolina
My Commission expires: 11/01/2023.

EXHIBIT
A

Service Address

Pain Clinic

Verdun

ARTIFICIALITY OF WORK

NEAL TRUSLOW

STEPHEN BRETZINGER, LINDSEY
HOLSINGER, ETC.

Attempts:

Notes:

7/21 attempt I observed a vehicle in the driveway, FL 475-HLY, with no driver information. 7/25 attempt I observed a UPS package at the door addressed to Ms. Holsinger. 7/27 attempt package retrieved. Maybe avoiding service.

by:

PALM BEACH COUNTY SHERIFF'S OFFICE ORIGINAL RETURN

Court: COMMON PLEAS
Case No.: 2016CP4003728
County: RICHLAND

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STEPHEN BRETZINGER

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7686 CORKWOOD AVENUE
BOYNTON BEACH, FL 33437

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HARVEY M. WATSON, III, ESQ.
P.O. BOX 6338
WEST COLUMBIA, SC 29171

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SUMMONS & COPY & COPY
OF COMPLAINT

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NEAL TRUSLOW

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STEPHEN BRETZINGER, LINDSEY
HOLSINGER, ETC.

Received this Writ on July 18, 2016 at 10:21 AM and was unexecuted on August 5, 2016, in Palm Beach County, Florida, a true copy of this Writ, endorsed thereon by me, Dennis O'Rourke.

Attempts:

7/20/2016 @ 7:23 AM
7/21/2016 @ 8:07 AM
7/25/2016 @ 9:15 AM
7/27/2016 @ 8:31 AM
7/30/2016 @ 9:25 AM
8/4/2016 @ 5:36 PM
8/5/2016 @ 7:01 AM

Notes:

8/5/2016 @ 10:06 AM

7/21 attempt I observed a vehicle in the driveway, FL 475-HLY, with no driver information. 7/25 attempt I observed a UPS package at the door addressed to Ms. Holsinger. 7/27 attempt package retrieved. Maybe avoiding service.

By:

Dennis O'Rourke 7505

8/31/2016

UPS: Tracking Information



United States

[New User](#) | [Contact](#) | [Changing Languages](#) | [Contact UPS](#) | [The](#)
[My UPS](#) | [Shipping](#) | [Tracking](#) | [Freight](#) | [Locations](#) | [Support](#) | [UPS Solutions](#)


Save up to 18% on UPS shipping for your business.
Sign up and start saving in your first week of shipping.

[Sign Up Now](#)

Tracking Number

[Log In for additional tracking details.](#)
[Other Tracking Options](#)

Tracking Detail

[Like This](#)
[Share](#)
[Print](#)
[Help](#)
[A A A](#)

1ZF6697AA490539212

Updated: 08/31/2016 10:59 A.M. Eastern Time.

Alternate Tracking Number : 1ZF6697AA790539216

Returned

Returning to Sender

Scheduled Delivery:

Scheduled delivery information is not available at this time. Please check back later.

Last Location:

Riviera Beach, FL, United States, Monday, 08/29/2016

Special Instructions:

Adult Signature Required

What time will your package
be delivered to your home?

Get FREE estimated

Delivery Windows on most

UPS packages.

[I am already a UPS My Choice® Member](#)

[Continue](#)
[Notify me with Updates »](#)
[Change Delivery »](#)

**Need more
information?**

[Get Help](#)
Shipping Information

To:
WEST COLUMBIA, SC, US

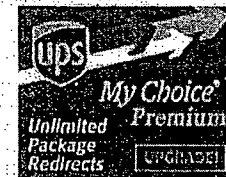
Service

**UPS Next Day
Air Saver®**

Shipment Progress

What's New?

Location	Date	Local Time	Activity
Riviera Beach, FL, United States	08/29/2016	10:07 A.M.	The receiver was not available at the time of the final delivery attempt. / The package will be returned to the sender. Alternate Tracking Number 1ZF6697AA790539216
Riviera Beach, FL, United States	08/22/2016	7:09 P.M.	The receiver was not available at the time of the final delivery attempt. / We've contacted the receiver to request additional information.
	08/22/2016	11:48 A.M.	The receiver was not available at the time of the final delivery attempt.
Riviera Beach, FL, United States	08/19/2016	12:25 P.M.	The receiver was not available at the time of the second delivery attempt. A final attempt will be made.
	08/19/2016	1:33 A.M.	Out For Delivery
Riviera Beach, FL, United States	08/18/2016	1:08 P.M.	The receiver was not available at the time of the first delivery attempt. A second attempt will be made.
	08/18/2016	7:51 A.M.	Out For Delivery
	08/18/2016	7:16 A.M.	Arrival Scan
West Palm Beach, FL, United States	08/18/2016	6:50 A.M.	Departure Scan
	08/18/2016	8:16 A.M.	Arrival Scan
Louisville, KY, United States	08/18/2016	4:13 A.M.	Departure Scan
Louisville, KY, United States	08/17/2016	11:12 P.M.	Arrival Scan


https://wwwapps.ups.com/WebTracking/track?loc=en_US

1/2

8/31/2016

UPS: Tracking Information

West Columbia, SC, United States	08/17/2016 10:09 P.M.	Departure Scan
	08/17/2016 9:05 P.M.	Origin Scan
	08/17/2016 6:55 P.M.	Pickup Scan
United States	08/17/2016 8:05 P.M.	Order Processed: Ready for UPS

Additional Information

Shipment Category:	Package
Shipped/Billed On:	08/17/2016
Weight:	1.50 lbs

Subscribe to UPS E-mail:

2016-11-03 10:04:05

Contact UPS

Browse Online Support

E-mail UPS

Live Chat

Call Customer Service

Support

Get Started

Register

Open a Shipping Account

Change Your Delivery

Solutions for

Healthcare

Small Business

High Tech

More...

Other UPS Sites:

Follow us:



UPS UNITED PROBLEM SOLVERS®

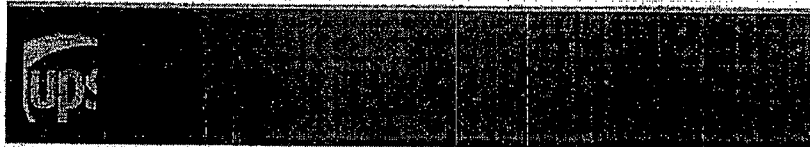
[Home](#) [About UPS](#) [Site Guide](#) [Investor](#) [Careers](#) [Pressroom](#) [UPS Global](#) [UPS Mobile](#) [UPS Blog](#)

[Service Terms and Conditions](#) [Website Terms of Use](#) [Privacy Notice](#) [Your California Privacy Rights](#) [Protect Against Fraud](#)

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Mara Ballard

From: UPS Quantum View <pkginfo@ups.com>
Sent: August 22, 2016 7:22 PM
To: Mara Ballard
Subject: UPS Exception Notification, Tracking Number 1ZF6697AA490539212



The status of your package has changed.

Exception Reason:

The receiver was not available at the time of the final delivery attempt.



[Change Delivery](#)

[Manage Settings](#)

[View Delivery Planner](#)

At the request of DESA BALLARD PA, this notice alerts you that the status of the shipment listed below has changed.

Signature Required:

Adult must be at least 21 years of age

Shipment Detail

Tracking Number:	<u>1ZF6697AA490539212</u>
Ship To:	Stephen Bretzinger 7686 Corkwood Ave BOYNTON BEACH, FL 334377560 US
UPS Service:	UPS NEXT DAY AIR SAVER
Package Weight:	1.5 LBS
Reference Number 1:	151031-002

8/31/2016

UPS: Tracking Information



United States

New User | Create | Changing Languages | Contact UPS | The UPS Store | Search

My UPS | Shipping | **Tracking** | Freight | Locations | Support | UPS Solutions

Save up to 18% on UPS shipping for your business.
Sign up and start saving in your first week of shipping.

Sign Up Now

Tracking Number

Track

Log In for additional tracking details.

Other Tracking Options

Tracking Detail

1 of 1

Share

Print

Help

A A A

1ZF6697AA492807820

Updated: 08/31/2016 10:56 A.M. Eastern Time

Alternate Tracking Number : 1ZF6697AA792807824

Returned

Returning to Sender

Scheduled Delivery:

Scheduled delivery information is not available at this time. Please check back later.

Last Location:

Riviera Beach, FL, United States, Monday, 08/29/2016

Special Instructions:

Adult Signature Required

What time will your package
be delivered to your home?

Get FREE estimated

Delivery Windows on most

UPS packages.

I am already a UPS My Choice® Member

Continue

Notify me with Updates »

Change Delivery »

Need more
information?

Get Help

Shipping Information

To:
WEST COLUMBIA, SC, US

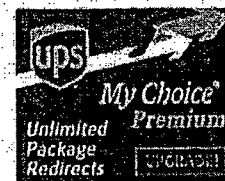
Service

UPS Next Day
Air Saver®

Shipment Progress

What's This?

Location	Date	Local Time	Activity
Riviera Beach, FL, United States	08/29/2016	10:05 A.M.	The receiver was not available at the time of the final delivery attempt. The package will be returned to the sender. Alternate Tracking Number 1ZF6697AA792807824
Riviera Beach, FL, United States	08/22/2016	7:09 P.M.	The receiver was not available at the time of the final delivery attempt. We've contacted the receiver to request additional information.
	08/22/2016	11:46 A.M.	The receiver was not available at the time of the final delivery attempt.
Riviera Beach, FL, United States	08/19/2016	12:25 P.M.	The receiver was not available at the time of the second delivery attempt. A final attempt will be made.
	08/19/2016	1:33 A.M.	Out For Delivery
Riviera Beach, FL, United States	08/18/2016	1:05 P.M.	The receiver was not available at the time of the first delivery attempt. A second attempt will be made.
	08/18/2016	7:29 A.M.	Out For Delivery
	08/18/2016	7:16 A.M.	Arrival Scan
West Palm Beach, FL, United States	08/18/2016	6:50 A.M.	Departure Scan
	08/18/2016	6:16 A.M.	Arrival Scan
Louisville, KY, United States	08/18/2016	4:13 A.M.	Departure Scan
Louisville, KY, United States	08/17/2016	11:12 P.M.	Arrival Scan



https://www.ups.com/WebTracking/processInputRequest?loc=en_US&Requester=NES&tracknum=1ZF6697AA492807820&AgreeToTermsAndConditions=yes... 1/2

8/31/2016

UPS: Tracking Information

West Columbia, SC, United States	08/17/2016 10:09 P.M.	Departure Scan
	08/17/2016 8:59 P.M.	Origin Scan
	08/17/2016 5:55 P.M.	Pickup Scan
United States	08/17/2016 5:09 P.M.	Order Processed: Ready for UPS

Additional Information

Shipment Category:	Package
Shipped/Billed On:	08/17/2016
Weight:	1.50 lbs

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Mara Ballard

From: UPS Quantum View <pkginfo@ups.com>
Sent: August 22, 2016 7:22 PM
To: Mara Ballard
Subject: UPS Exception Notification, Tracking Number 1ZF6697AA492807820



The status of your package has changed.

Exception Reason:

The receiver was not available at the time of the final delivery attempt.



[Change Delivery](#)

[Manage Settings](#)

[View Delivery Planner](#)

At the request of DESA BALLARD PA, this notice alerts you that the status of the shipment listed below has changed.

Signature Required:

Adult must be at least 21 years of age

Shipment Detail

Tracking Number:	<u>1ZF6697AA492807820</u>
Ship To:	Lindsey Holsinger 7686 Corkwood Ave BOYNTON BEACH, FL 334377560 US
UPS Service:	UPS NEXT DAY AIR SAVER
Package Weight:	1.5 LBS
Reference Number 1:	151031-002

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Neal Truslow

Plaintiff,

vs.

Stephen Bretzinger,
Lindsey Holsinger, and
Rikard & Protopapas, LLC

Defendant.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.:2016-CP-40-03728

**ORDER
FOR SERVICE
BY PUBLICATION**

This matter comes before me upon the Motion of the attorney for Plaintiff, Harvey M. Watson III, for an Order for Service by Publication pursuant to S.C. Code § 15-9-710.

It appears that there is just cause for granting this Motion, therefore,

IT IS HEREBY ORDERED that service upon the Defendants Stephen Bretzinger and Lindsey Holsinger be made by publication in the SunSentinel newspaper located in Palm Beach County, FL, once a week for three weeks.

IT IS SO ORDERED.

Jeanette W. McBride
Clerk of Court

Dated: _____
Richland County, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-40-03728

Neal Truslow,)
Plaintiff,)

**CERTIFICATE OF
SERVICE**

vs.)

Stephen Bretzinger,)
Lindsey Holsinger, and)
Rikard & Protopapas, LLC)

Defendant.

The undersigned certifies that she, on September 8, 2016 caused to be served a copy of the **Motion for Service by Publication, Affidavit of Mara Ballard and proposed Order for Service by Publication** by depositing all in the United States Mail, with sufficient first class postage affixed, addressed as follows:

Peter D. Protopapas, Esquire
Rikard & Protopapas, LLC
1329 Blanding Street
Columbia SC 29201

Lindsey Holsinger
7686 Corkwood Avenue
Boynton Beach, FL 33437

Stephen Bretzinger
7686 Corkwood Avenue
Boynton Beach, FL 33437


Mara T. Ballard, CPE, CMA

September 8, 2016

STATE OF SOUTH CAROLINA

COUNTY OF Richland

Neal Truslow

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

Plaintiff(s)

vs.

Stephen Bretzinger,
Lindsey Holsinger, and
Rikard & Protopapas, LLC

Defendant(s)

Submitted By: **Harvey M. Watson III**
Address: Post Office Box 6338, West Columbia, SC 29171

SC Bar #: 74053
Telephone #: 803.796.9299
Fax #: 803.796.1066
Other:
E-mail: harvey@desaballard.com
service@desaballard.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

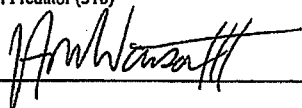
- | | | | |
|---|--|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☒ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 - NI -
☐ Notice/Filo Med/Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Administrative Law/Relief
☐ Reinstute Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Other (799) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex/Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of-State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660) | | |

SCCA / 234 (10/2014)

Page 1 of 3

☐ Sexual Predator (510)

Submitting Party Signature:



Date: 6-16-16

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow

Plaintiff

vs.

Stephen Bretzinger,
Lindsey Holsinger, and
Rikard & Protopapas, LLC

Defendants

FIFTH JUDICIAL CIRCUIT

IN THE COURT OF COMMON PLEAS

CASE NO.: 2016-CP-40-

SUMMONS

RICHLAND COUNTY
FILED
2016 JUN 16 PM 4:39
JANETTE W. MCERIDE
C.C.P. & G.S.

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer to said Complaint on the plaintiff's counsel at his office at P.O. Box 6338, West Columbia, South Carolina 29171, within thirty (30) days after the service hereof, exclusive of the day of service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.


Desa Ballard
Harvey M. Watson III

BALLARD & WATSON
Post Office Box 6338
West Columbia, South Carolina 29171
Telephone 803.796.9299
Facsimile 803.796.1066
desab@desaballard.com
harvey@desaballard.com

ATTORNEYS FOR PLAINTIFF

June 16, 2016

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
Neal Truslow	)	Case No. 2016-CP-40 -
	)	
	)	
	)	
Plaintiff	)	COMPLAINT
vs.	)	(Non-Jury)
	)	
Stephen Bretzinger,	)	
Lindsey Holsinger, and	)	
Rikard & Protopapas, LLC	)	
	)	
Defendants	)	

RICHLAND COUNTY
 FILED
 2016 JUN 16 PM 4:39
 JEANETTE W. MCARDIE
 C.C.R. & G.S.

The Plaintiff herein, complaining of the Defendants, would respectfully show unto this Honorable Court the following:

1. Plaintiff Neal Truslow is a citizen and resident of Richland County, South Carolina, and engages in the practice of law throughout the state.
2. Defendant Stephen Bretzinger (hereinafter "Bretzinger") is, upon information and belief, a citizen and resident of the State of Florida.
3. Defendant Lindsey Holsinger (hereinafter "Holsinger") is, upon information and belief, a citizen and resident of the State of Florida.
4. Defendant Rikard & Protopapas, LLC (hereinafter "Protopapas") is, upon information and belief, a domestic limited liability company organized and existing under the laws of the State of South Carolina, and is engaged in the practice of law in the State of South Carolina with a principal place of business located in Richland County, South Carolina. This Court has jurisdiction both over the parties hereto and the subject matter herein and venue is proper in Richland County, South Carolina.

FOR A FIRST CAUSE OF ACTION
(Breach of Contract)

5. Bretzinger and Holsinger purchased a home from Crestwood Homes, LLC ("Crestwood") in 2008 in York County, South Carolina. They later sued Crestwood

for alleged defects in the purchased home, and in July 2011 obtained a judgment against Crestwood in the amount of \$876,000.

6. Bretzinger and Holsinger later hired the firm of Nosal & Jeter, LLP via written and signed fee agreement (hereinafter "Fee Agreement"), in February 2013 to pursue collection of that amount from Crestwood and related parties. **Exhibit A.** The Fee Agreement was freely and voluntarily entered, is wholly compliant with state law regarding contracts generally, and consistent with all professional obligations applicable to Plaintiff by virtue of his membership in the South Carolina Bar.
7. As referenced in the Fee Agreement, Plaintiff was associated on the matter and thereafter acted as legal counsel on behalf of Defendants.
8. Following execution of the Fee Agreement, Plaintiff began efforts to collect that sum on behalf of Bretzinger and Holsinger. Those efforts included filing suit in October 2013 in the Federal District Court (Civil Action No. 0:13-cv-02771-JMC).
9. That suit (the "Federal Action") alleged numerous causes of action, including but not limited to: breach of contract, breach of fiduciary duties, negligence, violation of the SC Unfair Trade Practices Act, and to pierce the corporate veil. The defendants in the Federal Action were Crestwood and six individual persons associated with Crestwood.
10. The Federal Action required extensive effort on the part of Plaintiff by way of legal representation and counsel. A motion for summary judgment by the defendants in the Federal Action was defendant and later denied via order dated September 5, 2014.
11. On September 26, 2014, the parties to the Federal Action reached an informal settlement agreement to fully resolve the claims between all parties in exchange for payment from the Federal Action defendants to Bretzinger and Holsinger in the amount¹ of \$100,000.

¹ Settlement offers prior to litigation were for approximately \$1,000. Accordingly, this offer to conclude the Federal Action represented a substantial improvement and significant beneficial result obtained by the efforts of Plaintiff on behalf of Defendants Bretzinger and Holsinger.

12. Defendants Bretzinger and Holsinger later attempted to back out of settlement and reject a more formal settlement agreement that had been prepared to memorialize the informal settlement between the parties to the Federal Action.
13. At that time, Plaintiff sought relief as counsel for Bretzinger and Holsinger in the Federal Action. Defendant Protopapas assumed representation of Bretzinger and Holsinger in November 2014 and remained as counsel through conclusion of the Federal Action.
14. Upon appearance as counsel by Defendant Protopapas, Plaintiff notified Bretzinger, Holsinger, and Protopapas that Plaintiff was asserting a charging lien for attorney's fees and costs against the first \$100,000 of any recovery made by Defendants Bretzinger and Holsinger in connection with the Federal Action, pursuant to the terms of the Fee Agreement.
15. The Federal Action concluded shortly thereafter after a motion to compel settlement filed in November 2014 was ultimately granted by order of the Federal District Court on May 7, 2015. **Exhibit B.**
16. Defendant Protopapas received \$100,000 in payment from the Federal Action defendants on or about June 5, 2015, and subsequently deposited the funds into its firm trust account.
17. Plaintiff contends that he has fully earned, and is immediately owed, an amount of attorney fees equal to 33% of that gross recovery (\$33,000), plus costs incurred in the amount of \$2,132.55, for a total of \$35,132.55 due to him under the terms of the Fee Agreement.
18. Requests to Defendant Protopapas for disbursement in that amount have been denied on the basis of Bretzinger and Holsinger refusing to authorize the release of those funds from trust.
19. Nevertheless, Defendant Protopapas has indicated an amount of funds sufficient to resolve the amounts due as claimed by Plaintiff remains held in its trust account. It remains held in trust pending resolution of competing claims as to entitlement to those

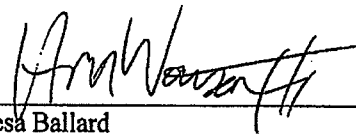
funds, as required by Rule 1.15(e) of the SC Rules of Professional Conduct (Rule 407, SCACR).

20. Nosal & Jeter, LLP has fully and permanently assigned to Plaintiff any and all interest it may have in the funds held by Defendant Protopapas.
21. By their refusal to authorize disbursement of funds held in Defendant Protopapas' trust account to resolve amounts due and owing to Plaintiff, Defendants Bretzinger and Holsinger are in material breach of their obligations under the terms of the Fee Agreement.
22. Plaintiff has suffered damages as a direct and proximate result of that breach. Damages are in the amount of earned fees and costs wrongfully denied to them, plus interest therein, in addition to fees and costs incurred by Plaintiff associated with efforts to secure release of the funds held in trust, including those associated with this legal action.
23. Plaintiff is therefore informed and believe he is entitled to judgment against Defendants Bretzinger and Holsinger in an amount equal to \$35,132.55, plus costs associated with this action.
24. Further, Plaintiff is informed and believes that judgment against Defendants Bretzinger and Holsinger should include a directive to Defendant Protopapas to release an amount equal to \$35,132.55 from funds held on behalf of Defendants Bretzinger and Holsinger in his trust account as necessary and appropriate specific performance under the terms provided by the Fee Agreement that has been breached.

WHEREFORE, Plaintiff prays for an Order of this Court:

- A. For judgment in favor of Plaintiff against Defendants Bretzinger and Holsinger in the amount of
 - (i) \$35,132.55, representing combined attorney fees and reimbursement costs under the terms of the subject Fee Agreement, together with
 - (ii) fees and costs incurred in this action;

- B. Directing that Defendant Rikard and Protopapas disburse the amount of \$35,132.55 plus awarded fees and costs from any funds held in its trust account on behalf of Defendants Bretzinger and Holsinger to resolve amounts owed by Defendants Bretzinger and Holsinger;
- C. Providing for such other and further relief as the Court may deem appropriate.



Desa Ballard
Harvey M. Watson III

BALLARD & WATSON
P.O. Box 6338
West Columbia, South Carolina 29171
Telephone 803.796.9299
Facsimile 803.796.1066
harvey@desaballard.com

ATTORNEYS FOR PLAINTIFF

June 16, 2016



PETER J. NOSAL, Esq.
2879 Hwy 160 West # 4322
Fort Mill, SC 29708
Telephone (803) 351-3597
Fax (803) 403-9515
peter@nosaljeterlaw.com
(Licensed in S.C.)

THOMAS C. JETER III, Esq.
1235 W. Morehead St
Charlotte, NC 28208
Telephone (704) 608-3429
Fax (803) 403-9515
thomas@nosaljeterlaw.com
(Licensed in N.C.)

LEGAL SERVICES AGREEMENT

1. IDENTIFICATION OF PARTIES. This agreement is made between Nosal & Jeter, LLP, hereafter referred to as "Law Firm," and Stephen Bretzinger and Lindsay Holsinger hereafter referred to as "Client."

2. LEGAL SERVICES TO BE PROVIDED. The legal services to be provided by Law Firm to Client are limited to the following: Representation of Client to assist in collection of \$876,250.00 Judgment.

3. RESPONSIBILITIES OF ATTORNEY AND CLIENT. Law Firm will perform the legal services called for under this agreement, keep Client informed of progress and developments, and respond promptly to Client's inquiries and communications. Client will be truthful and cooperative with Law Firm; keep Law Firm reasonably informed of developments and of Client's address, telephone numbers and whereabouts; and timely make any payments required by this agreement.

4. LAW FIRM MAY ASSOCIATE OUTSIDE COUNSEL. Client agrees Law Firm may associate with other firms to perform representation for their case. Law Firm will associate Truslow and Truslow, PA to assist ~~with~~ all litigation.

5. ATTORNEY'S FEES. Client will pay Law Firm for attorney's fees for the legal services provided under this agreement at the respective hourly rates. The rates fall within the following ranges:

ATTORNEY RATES – Client has elected to enter into a contingency contract for these services. The attorney's fee will be 33% of any gross amount collected prior to the deduction of costs. No promises or guarantees of any financial recovery have been made regarding this claim. However, even if there is no pecuniary award or settlement, Client agrees to reimburse all agreed upon costs expended in this case. Attorney(s) agree to consult with client prior to agreeing to any abnormal costs. Normal "costs" include court filing fees, medical record charges, shipping charges, and deposition/ discovery charges. In the event that other attorneys participate in this

case, it is agreed that there will be no additional legal fees charged to Client. Any ultimate attorney fee generated will be shared equally amongst attorneys.

6. **COSTS.** Client will pay all "costs" in connection with Law Firm's representation of Client under this agreement. Costs will be advanced by Law Firm and then billed to Client unless the costs can be met out of client deposits that are applicable toward costs. Costs include, but are not limited to, court filing fees, deposition costs, expert fees and expenses, investigation costs, postage, shipping charges, long-distance telephone charges, messenger service fees, photocopying expenses, legal research costs (i.e. Westlaw), and process server fees.

7. **RETAINER.** Client will pay to Law Firm an initial retainer of \$00.00, which will be deposited into Law Firm trust account and is not subject to refund, unless required to be refunded by the Rules of Professional Conduct. Law Firm will bill against this amount at the hourly rates provided for herein. Client authorizes Law Firm to withdraw the principal from the trust account to pay attorney's fees as they are incurred by Client. If, at the termination of services under this agreement, the total amount incurred by Client for attorney's fees is less than the amount of any funds held in trust the difference will be refunded to Client.

Law Firm will notify Client whenever the full amount of any deposit has been applied to attorney's fees incurred by Client. Within 15 days after each notification is mailed, Client will pay to Law Firm an additional deposit in the same amount as the initial one. Client authorizes Law Firm to withdraw the principal from the trust account to pay attorney's fees as they are incurred by Client. Such additional deposits will be fully refundable. If, at the termination of services under this agreement, there have been two or more deposits and the total amount incurred by Client for attorney's fees is less than the total amount of all deposits, the difference will be refunded to Client.

8. **STATEMENTS AND PAYMENTS.** Law Firm will send Client monthly statements indicating attorney's fees and costs incurred and their basis, any amounts applied from deposits, and any current balance owed. If no attorney's fees or costs are incurred for a particular month, or if they are minimal, the statement may be held and combined with that for the following month. Any balance will be paid in full within 30 days after the statement is mailed.

9. **GOVERNING LAW.** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of South Carolina. The section headings contained herein are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

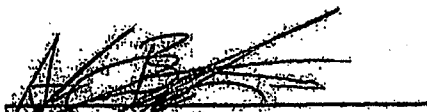
10. **DISPUTE RESOLUTION.** Any dispute, controversy or claim arising out of or in connection with, or relating to, this Agreement or any breach or alleged breach hereof shall, upon the request of any party involved, be submitted to, and settled by, arbitration in the City of Rock Hill, SC.

11. **NON-ASSIGNABLE.** The rights and duties as contained herein shall not be transferable or assignable by the parties.

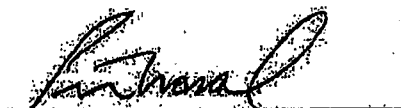
12. ENTIRE AGREEMENT. This agreement is the entire agreement among the parties with respect to the subject matter hereof, and no representations or covenants, whether oral or written, have been made regarding the subject matter hereof except as expressly provided herein.

This the 4th day of February, 2013.

The foregoing is agreed to by:


Stephen Brezinger


Lindsay Holsinger


Nosal & Jeter, LLP
By: Peter J. Nosal

Truslow & Truslow, PA
Post Office Box 1465
Columbia, SC 29202-1465

www.truslowlaw.com

Ph: (803) 256-6276

Fax: (803) 256-7659

Stephen Bretzinger
2879 Highway 160 W 4322
Fort Mill, SC
29708

September 18, 2014

File #: 13-003

Inv #: 1841

Attention: Peter Nosal

Please remit payment within ten (10) days or contact us
within ten (10) days to arrange a payment plan.

RE: Bretzinger vs. Crestwood Homes et al

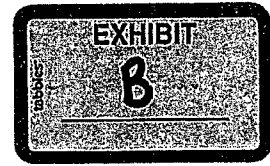
DISBURSEMENTS

	Filing Fee	\$400.00
	Photocopies	\$466.80
	Postage	\$184.27
3/26/13	USDC Pacer Copies	\$73.90
	SC Secretary of State	\$3.50
10/25/13	NC Secretary of State Process Fee	\$10.00
11/15/13	Process Service and Skip Trace	\$314.00
12/16/13	Process Service and Skip Trace	\$442.00
12/17/13	Memorandum Binding and Copies	\$21.70
5/27/14	Mileage - travel to/from property - 154.4 miles	\$86.46
8/27/14	Mileage - travel to/from Anderson for Mediation - 232 miles	\$129.92
	Total	\$2,132.55

Total Fee & Disbursements \$2,132.55

Balance Now Due **\$2,132.55**

For your convenience we accept Visa, MasterCard, and Discover.



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Stephen Bretzinger and Lindsey Holsinger,	)	Civil Action No. 0:13-cv-02771-JMC
	)	
Plaintiffs,	)	
v.	)	
	)	
Crestwood Homes, LLC d/b/a Scenic	)	<u>ORDER AND OPINION</u>
Homes, Paul Meng, James Ray, Reggie	)	
Lee McGaugh, Susan Meng, Mary Beth	)	
McGaugh, and Susan Ray,	)	
	)	
Defendants.	)	

Plaintiffs Stephen Bretzinger and Lindsey Holsinger (collectively "Plaintiffs") filed this action seeking damages from Defendants Crestwood Homes, LLC d/b/a Scenic Homes, Paul Meng, James Ray, Reggie Lee McGaugh, Susan Meng, Mary Beth McGaugh, and Susan Ray (collectively "Defendants") resulting from their construction and sale to Plaintiffs of an allegedly defective house located at 2055 Covered Bridge Court, York County, South Carolina (the "Property"). (ECF No. 1.) Plaintiffs assert claims under state law against Defendants for breach of contract to construct an improvement to real property, breach of fiduciary duties, breach of the implied covenant of good faith and fair dealing, fraud, breach of contract accompanied by a fraudulent act, negligent misrepresentation, violation of the South Carolina Unfair Trade Practices Act, S.C. Code Ann. §§ 39-5-10 to -560 (1985 & Supp. 2011), fraudulent conveyance, unjust enrichment, civil conspiracy, breach of warranty, negligent construction, negligence per se, gross negligence, rescission, to void a contract for unconscionability, aiding and abetting wrongdoing, to pierce the corporate veil, and to collect on a judgment. (Id. at 7-22.)

This matter is before the court pursuant to Defendants' Motion to Enforce Settlement Agreement. (ECF No. 55.) Plaintiffs oppose the pending Motion to Enforce Settlement. (ECF

No. 62.) For the reasons set forth below, the court GRANTS Defendants' Motion to Enforce Settlement.

I. RELEVANT BACKGROUND TO PENDING MOTION

The following relevant facts taken from the complaint are assumed to be true only for the purposes of the pending motion. Crestwood Homes, LLC ("Crestwood") is an "association of persons" that includes "Individual Defendants" Paul Meng, James Ray, Reggie Lee McGaugh, Susan Meng, Mary Beth McGaugh, and Susan Ray. (ECF No. 1 at 6 ¶ 44.) This action arises from a course of events that allegedly resulted in Plaintiffs entering into a residential contract with Crestwood on or about June 28, 2008 to purchase the Property. (*Id.* at 3 ¶ 24.) After closing on and receiving title to the Property, Plaintiffs became aware of specified defects in the Property. (*Id.* at 4 ¶¶ 27-28.) Plaintiffs allege that after they provided notice of the defects in the Property to Crestwood, it failed to remedy said defects in the Property thereby resulting in the Property sustaining significant additional damage. (*Id.* at 4 ¶ 29, 5 ¶¶ 31-32.)

On July 29, 2010, Plaintiffs filed a lawsuit against Crestwood in the York County (South Carolina) Court of Common Pleas. (ECF No. 1-2.) Crestwood did not answer or otherwise respond to the lawsuit. After entering default against Crestwood on or about January 18, 2011, the state court entered judgment for Plaintiffs on July 8, 2011 in the amount of \$876,000.00 against Crestwood. (ECF No. 1-4.)

Thereafter, on October 10, 2013, Plaintiffs filed a Complaint in this court alleging the aforementioned causes of action against Defendants. (ECF No. 1.) On November 5, 2013, Crestwood answered the Complaint generally denying its allegations. (ECF No. 9.) On November 18, 2013, Individual Defendants filed Motions to Dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(2). (ECF No. 16.) On September 5, 2014, the court denied

without prejudice Individual Defendants' Motions to Dismiss with leave to re-file after a period of limited jurisdictional discovery. (ECF No. 44.)

On September 26, 2014, the parties allegedly reached an agreement for the complete and final resolution and settlement of this case (the "Settlement Agreement"). (See ECF No. 55-1 at 5 ("They [Plaintiffs] accept and will settle for \$100,000.00" in exchange for a global release).) The Settlement Agreement and essential terms of the same were memorialized using the following language in an e-mail sent by Plaintiffs' counsel of record, Neal Truslow ("Truslow"), to Defendants' counsel on September 29, 2014:

To confirm the status of where we are:

Defendants have offered, and Plaintiffs have accepted, a \$100,000 (gross) global settlement to resolve this case. Defendants are drafting a full, final and complete release from Plaintiffs that ends litigation upon payment. This settlement shall be a final settlement of all claims – past, present, or future – by Plaintiffs against any/all Defendants (or associated entities, heirs, assigns, etc.) in this action, and specifically includes the prior State court action and this Federal action. Essentially, anything to do with the house in York County will be covered by this action. To the extent Plaintiffs have enrolled this judgment in any jurisdiction, they will say that same is satisfied, dissolved or otherwise abandoned. This is standard language included in any release, to my understanding.

(Id. at 2.) On or about October 7, 2014, Defendants' counsel prepared more formal settlement and release documents and provided the same to Plaintiffs' counsel. (ECF No. 55-2 at 3.) On October 29, 2014, Plaintiffs' counsel informed Defendants' counsel that Plaintiffs "desire[d] to nullify the settlement" and dismiss the case without prejudice. (ECF No. 55-3 at 2.)

On November 5, 2014, Defendants filed the instant Motion to Enforce Settlement. (ECF No. 55.) Plaintiffs filed their Response in Opposition to Defendants' Motion to Enforce Settlement on November 24, 2014. (ECF No. 62.) On December 9, 2014, the court heard argument from the parties on the pending Motion to Enforce Settlement. (ECF No. 71.)

II. LEGAL STANDARD AND ANALYSIS

A. Standard for Enforcing Settlement

“Settlement agreements are matters of contract law, and contract law principles apply.” Patel v. Barot, 15 F. Supp. 3d 648, 653 (E.D. Va. 2014). “Because exercise of the authority to enforce settlement agreements depends on the parties’ agreement to a complete settlement, the court cannot enforce a settlement until it concludes that a complete agreement has been reached and determines the terms and conditions of that agreement.” Hensley v. Alcon Labs., Inc., 277 F.3d 535, 540 (4th Cir. 2002) (citing Ozyagcilar v. Davis, 701 F.2d 306, 308 (4th Cir. 1983)). Therefore, “to exercise its inherent power to enforce a settlement agreement, a district court (1) must find that the parties reached a complete agreement and (2) must be able to determine its terms and conditions.” Id. at 540–41 (citing Moore v. Beaufort Cnty., 936 F.2d 159, 162 (4th Cir. 1991); Ozyagcilar v. Davis, 701 F.2d 306, 308 (4th Cir. 1983)). Accordingly, “if an agreement for complete settlement of the underlying litigation, or part of it, has been reached and its terms and conditions can be determined, the court may enforce the agreement summarily as long as the excuse for nonperformance of the agreement is ‘comparatively insubstantial.’” Id. at 540 (quoting Millner v. Norfolk & W. Ry. Co., 643 F.2d 1005, 1009 (4th Cir. 1981)). However, “[i]f there is a factual dispute over the existence of an agreement, over the authority of attorneys to enter into the agreement, or over the agreement’s terms, the district court may not enforce a settlement agreement summarily,” and it must instead conduct a hearing in order to resolve that dispute and make factual findings. Id. at 541 (citations omitted).

B. The Parties’ Arguments

1. *Defendants*

Defendants move the court to enforce an alleged settlement with Plaintiffs containing the

following terms and conditions:

Defendants have offered, and Plaintiffs have accepted, a \$100,000 (gross) global settlement to resolve this case. Defendants are drafting a full, final and complete release from Plaintiffs that ends litigation upon payment. This settlement shall be a final settlement of all claims – past, present, or future – by Plaintiffs against any/all Defendants (or associated entities, heirs, assigns, etc.) in this action, and specifically includes the prior State court action and this Federal action. Essentially, anything to do with the house in York County will be covered by this action. To the extent Plaintiffs have enrolled this judgment in any jurisdiction, they will say that same is satisfied, dissolved or otherwise abandoned. This is standard language included in any release, to my understanding.

(ECF No. 55-1 at 2.) In support of their Motion to Enforce Settlement, Defendants argue that Plaintiffs' counsel "irrefutably confirmed the clear and ambiguous terms of the [S]ettlement [A]greement," and the acts of an attorney are binding on the client. (ECF No. 55 at 1, 3 (citing Sadighi v. Daghighfekr, 66 F. Supp. 2d 752, 761 (D.S.C. 1999) (citation omitted)).) Defendants further argue that "[t]he writings between counsel of record in this case unequivocally demonstrate that: (1) the parties reached a complete agreement; and (2) the writings set forth the essential terms and conditions of the Settlement Agreement." (ECF No. 55 at 3.) As a result, "Plaintiffs are bound by the actions of their attorneys" and the "Settlement Agreement is binding and enforceable upon the Plaintiffs." (*Id.* at 3-4.) Based on the foregoing, Defendants request that the court enforce the Settlement Agreement and dismiss this action. (*Id.* at 4.)

2. *Plaintiffs*

Plaintiffs oppose the Motion to Enforce Settlement asserting that it should be denied because the emails attached to Defendants' motion only "demonstrate that there was no commitment [to a settlement] and that critical terms were to be negotiated prior to any commitment." (ECF No. 62 at 1.) Plaintiffs next assert that their counsel "did not have authority to bind either of the Plaintiffs to a settlement agreement" or "forfeit an outstanding State Court judgment against the Defendants." (*Id.* at 7.) Finally, Plaintiffs assert that Defendants' evidence

does not support a finding that Plaintiffs displayed the intent "to be bound to any purported settlement." (Id. at 8.) As a result, Plaintiffs beseech the court to deny Defendants' Motion to Enforce Settlement. (Id.)

C. The Court's Review

Upon consideration of the parties' arguments, the court finds that the terms of the parties' alleged settlement are clearly set forth in the parties' exhibits¹ and, therefore, the court should enforce the settlement unless it determines that the parties failed to reach a complete agreement. As to this issue, Plaintiffs argue that their counsel did not have either actual authority or apparent authority to settle the matter. (ECF No. 62 at 7.) As support for their argument, Plaintiffs submitted affidavits, which specifically stated that their attorneys were not authorized to settle the case (ECF Nos. 62-4 & 62-5), and cited to Rule 43(k), SCRCP, which rule provides that "[n]o agreement between counsel affecting the proceedings in an action shall be binding unless reduced to the form of a consent order or written stipulation signed by counsel and entered in the record, or unless made in open court and noted upon the record, or reduced to writing and signed by the parties and their counsel."

In assessing the merits of Plaintiffs' argument, the court observes that an attorney's "authority to negotiate" on behalf of his client "is far different from the authority to agree to a specific settlement." Auvil v. Grafton Homes, Inc., 92 F.3d 226, 231 (4th Cir. 1996). "It is generally accepted that when a client retains an attorney to represent him in litigation, absent an express agreement to the contrary, the attorney has implied authority to conduct the litigation and to negotiate its resolution." Id. at 229-230. Moreover, under South Carolina law, absent fraud or mistake, counsel of record has the authority to settle litigation on behalf of their client.

¹ Defendants will pay \$100,000.00 to Plaintiffs in exchange for a full release of all claims. (ECF No. 55-1 at 2.)

Arnold v. Yarborough, 316 S.E.2d 416, 417 (S.C. Ct. App. 1984) ("Acts of an attorney are directly attributable to and binding upon the client.") (Citation omitted); see also Poore v. Poore, 89 S.E. 569, 571 (S.C. 1916) ("It will never do, in the absence of fraud, to allow the undoubted attorneys of record for a party to a suit to enter into a solemn agreement to settle and adjust the issues and subject-matter of a suit and then later, if it is done, because for any reason the party is dissatisfied, to allow him to repudiate this agreement and employ different counsel to upset and set aside what his first counsel has done.").

Upon review, the court finds that Truslow, Plaintiffs' attorney of record, bound Plaintiffs when he stated his acknowledgement to the agreed upon terms of the settlement.² (See ECF No. 55-1 at 2 ("To confirm the status of where we are: Defendants have offered, and Plaintiffs have accepted, a \$100,000 (gross) global settlement to resolve this case I'll be sure to consent [to a stipulation of dismissal] once we've got funds and you've got a signed release.")). Under South Carolina law, Truslow's actions bind Plaintiffs since there has not been a showing of fraud. Arnold, 316 S.E. 2d at 417 ("Litigants must necessarily be held bound by the acts of their attorneys in the conduct of a cause in court, in the absence, of course, of fraud.") (Citation omitted). In this regard, neither Plaintiffs' affidavits nor Rule 43(k), SCRPC, require the court to find otherwise. See, e.g., Surety Ins. Co. of Cal. v. Williams, 729 F.2d 581, 583 (8th Cir. 1984) ("We think that in meeting that burden the Williamses may not rely on their conclusory affidavit,

² There were communications relevant to the settlement made by an attorney, Peter Nosal, who was not counsel of record for Plaintiffs in this matter. (See, e.g., ECF No. 55-1 at 4 ("I understand your concerns. I have explained to them that the settlement will be contingent of a full release of any and all claims against all defendants. Pete.") & 5 ("They accept and will settle for \$100,000.00. They have some concerns about the language in the release, but I am confident we can work that out. Pete.")). The court does not rely on Nosal's communications to establish Plaintiffs' agreement to settle the matter. See, e.g., Andrulonis v. United States, No. 79-CV-847, 1995 WL 46331, at 2 (N.D.N.Y. Jan. 25, 1995) ("First, the court holds that no binding settlement agreement existed. Attorney Buskus was not the attorney of record in the district court, and counsel for the United States should have realized that agreement of the counsel of record was required before a settlement became binding.").

but must establish through competent evidence that their attorney lacked actual, implied, or apparent authority to stipulate to an entry of judgment.”); Nationwide Mut. Ins. Co. v. Ruff, C/A No. 0:11-1011-CMC, 2011 WL 2491345, at *3 (D.S.C. June 22, 2011) (“[T]he South Carolina Rules of Civil Procedure govern actions brought in South Carolina courts, not federal courts, ...”); United States v. Hemmons, 774 F. Supp. 346, 350 (E.D. Pa. 1991) (“State rules of civil procedure do not apply in a federal court.”) (citing, e.g., U.S. Const. art. IV). Accordingly, the court concludes that the parties did reach a complete agreement to settle this matter, and the terms of that agreement are clearly discernible from the record.

III. CONCLUSION

For the reasons set forth above, the court hereby **GRANTS** Defendants’ Motion to Enforce Settlement Agreement. (ECF No. 55.) The court further **ORDERS** the parties to fulfill their obligations under the Settlement Agreement within 30 days of the date of entry of this Order. This action is hereby **DISMISSED**.

IT IS SO ORDERED.



United States District Judge

May 7, 2015
Columbia, South Carolina

Defendants Stephen Bretzinger and Lindsey Holsinger's Supplemental Response to
Plaintiff's Request to Admit served on September 15, 2017

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
Neal Truslow,	)	Case No.: 2016-CP-40-03728
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANTS STEPHEN
	)	BRETZINGER and LINDSEY
	)	HOLSINGER'S SUPPLEMENTAL
Stephen Bretzinger, Lindsey Holsinger,	)	RESPONSES to PLAINTIFF'S
and Rikard & Protopapas, LLC.	)	REQUESTS TO ADMIT
	)	
Defendants.	)	

Pursuant to Rule 36 of the SCRCF, Defendants supplement their responses to Plaintiff's Requests to Admit as follows:

1. The attached email dated August 22, 2016 accurately represents instructions given by these defendants, or either of them, to Peter Protopapas sometime prior to August 22, 2016.

RESPONSE: Denied. The attached e-mail is a communication between Peter Protopapas and Plaintiff's counsel, it contains no instructions from Defendants. Defendants admit that since they did not retain Mr. Protopapas to represent them in this action, he was not allowed to accept service on their behalf. Unless expressly admitted herein, Defendants deny the remaining allegations of this Request to Admit.

2. These defendants were aware no later than August 22, 2016 that the lawsuit had been filed and that service upon them was being attempted.

RESPONSE: After further review of documents, Defendants admit that they were aware no later than August 22, 2016 that the lawsuit had been filed and that service upon them was being attempted. Unless expressly admitted herein, Defendants deny the remaining allegations of this Request to Admit

3. These defendants have avoided service in this matter.

RESPONSE: Denied.

4. These defendants were aware that service by publication had been authorized by this Court prior to October 8, 2016.

RESPONSE: After further review of documents, Defendants admit that they were aware no later than October 8, 2016 that service by publication had been authorized by this Court. Unless expressly admitted herein, Defendants deny the remaining allegations of this Request to Admit.

5. These defendants had actual notice of this litigation no later than November 1, 2016.

RESPONSE: The Defendants admit that they had notice of the litigation no later than November 1, 2016.

6. These defendants had received a copy of the complaint in this matter no later than November 1, 2016.

RESPONSE: Defendants admit that they received a copy of the complaint no later than November 1, 2016.

7. These defendants intend to delay these proceedings.

RESPONSE: Denied.

8. These defendants lack a defense to this action.

RESPONSE: Denied.

9. These defendants have received settlement funds recovered by Plaintiff on their behalf.

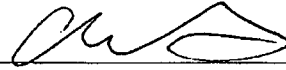
RESPONSE: Defendants admit they received a portion of settlement funds in the action filed in the U.S. District Court for the District of South Carolina, captioned *Bretzinger and Holsinger v. Crestwood Homes, LLC et al.*, Case No.: 0:13-CV-2771-JMC. Unless expressly admitted herein, Defendants deny the remaining allegations of this Request to Admit.

10. These defendants are attempting to avoid paying an attorney fee for work that performed for them in connection with the collection of a judgment.

RESPONSE: Denied.

This the 15th day of September, 2017.

THE MACCLENAHAN LAW FIRM, LLC



Alexandre N. MacClenahan

SC Bar # 72507

223 W. Stone Avenue

Greenville, SC 29609

864-382-3340/FAX 864-331-3058

alex@macclenahanlaw.com

Attorney for Defendants

Stephen Bretzinger and

Lindsey Holsinger

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow,

Plaintiff,

vs.

Stephen Bretzinger, Lindsey Holsinger,
and Rikard & Protopapas, LLC.

Defendants.

FIFTH JUDICIAL CIRCUIT

IN THE COURT OF COMMON PLEAS

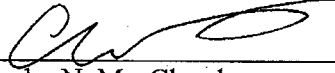
Case No.: 2016-CP-40-03728

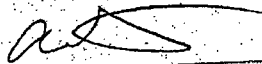
Certificate of Service

The undersigned attorney for Defendants Stephen Bretzinger and Lindsey Holsinger hereby certifies that on September 15, 2017 he served a copy of the forgoing **Defendant Stephen Bretzinger and Lindsey Holsinger's Supplemental Responses to Plaintiff's Requests for Admission** via United States Mail, sufficient postage prepaid, addressed to all counsel of record as follows:

Desa Ballard
Ballard & Watson
Post Office Box 6338
West Columbia, South Carolina 29171
desab@desaballard.com

Peter Protopapas
Rikard & Protopapas, LLC
1329 Blanding Street
Columbia, South Carolina 29201
pdp@rplegalgroup.com


Alexandre N. MacClenahan
SC Bar 72507
The MacClenahan Law Firm, LLC
223 W. Stone Avenue
Greenville, SC 29609
864-382-3340/FAX: 864-751-2963
alex@macclenahanlaw.com
Attorney for Defendants
Stephen Bretzinger and
Lindsey Holsinger

THE MACCLENAHAN LAW FIRM LLC		1046
TRUST ACCOUNT		87-801/532
870 CLEVELAND ST UNIT 1B		
GREENVILLE, SC 29601		
Date <u>9/15/17</u>		
Pay to the	<u>Dega Ballard</u>	\$ <u>700.00</u>
Order of	<u>Seven Hundred Only Dollars</u>	Dollars
 GREENVILLE FIRST Greenville, SC		 Security Features Details on Back
For <u>Brexit - Fee Award</u>		

Plaintiff's Memorandum in Opposition to Motion to Set Aside Default Judgment,
with exhibits, served on July 7, 2017

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Neal Truslow)

Plaintiff,)
vs.)

Stephen Bretzinger,)
Lindsey Holsinger, and)
Rikard & Protopapas, LLC)
Defendants)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-40-3728

**PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO MOTION TO SET ASIDE
DEFAULT JUDGMENT**

Plaintiff, attorney Neal Truslow (hereafter "Truslow"), previously served as counsel for Defendants Bretzinger and Holsinger (hereafter "Defendants") in recovering funds in a civil action. Defendants attempted to reject the settlement after authorizing it. The court in which the matter was then pending issued an order enforcing the settlement. Defendant Rikard & Protopapas, LLC (hereafter "Protopapas") became successor counsel for Defendants, and the funds recovered by Truslow were delivered to Protopapas. Defendants authorized release of the net proceeds to themselves, but objected to payment to Truslow.

In this action, Defendants defaulted and this Court entered a default judgment against them on November 29, 2016. The default judgment should not be set aside.

Defendants filed suit in 2013 in United States District Court (hereafter "the District Court action") against a number of defendants, alleging damages related to the construction of a home in York County. (Ex. A, p. 2). In September 2014, Defendants authorized Truslow to settle the construction suit for \$100,000.00 and he communicated that to opposing counsel. *Id.* at p. 3. Truslow moved to be relieved as counsel based on a disagreement with the client on October 22, 2014. **Ex. B.** Thereafter, a motion to enforce the settlement was filed by the opposing parties in

the District Court action. Defendants consented to Truslow being relieved as counsel, and Protopapas appeared as successor counsel for Defendants. **Ex. C.**

The District Court entered an order on May 7, 2015 enforcing the settlement. **Ex. A** Truslow and Protopapas communicated with one another for several months, but Defendants refused to allow Truslow's fee to be paid to him. **Ex D.**

Having no other option, Truslow filed this action. Truslow's counsel asked Protopapas if he could accept service for Defendants. Defendants refused to allow Protopapas to accept service. **Ex E.** Therefore, Defendants had actual notice of this lawsuit no later than June 26, 2016 because they forbade Protopapas from accepting service on their behalf.

Protopapas filed an answer dated July 8, 2016 in which he admitted he was holding \$35,132.55 in his trust account. (**Protopapas Answer ¶ 7**). Protopapas also admitted the allegations of Paragraphs 14, 15 and 16 of the complaint, which read as follows:

14. Upon appearance as counsel by Defendant Protopapas, Plaintiff notified Bretzinger, Holsinger, and Protopapas that Plaintiff was asserting a charging lien for attorney's fees and costs against the first \$100,000 of any recovery made by Defendants Bretzinger and Holsinger in connection with the Federal Action, pursuant to the terms of the Fee Agreement.
15. The Federal Action concluded shortly thereafter after a motion to compel settlement filed in November 2014 was ultimately granted by order of the Federal District Court on May 7, 2015.
16. Defendant Protopapas received \$100,000 in payment from the Federal Action defendants on or about June 5, 2015, and subsequently deposited the funds into its firm trust account.

Truslow attempted service of the pleadings in this matter on Defendants. As more fully set forth in the Motion for Service by Publication (which was granted), the Sheriff's Department attempted service upon Defendants on eight (8) occasions and noted "activity that suggests

Defendants may be avoiding service of process.” **Ex. F.** Service was attempted by United Parcel Service on four (4) occasions. *Id.* By order dated September 12, 2016, the Richland County Clerk of Court authorized Service by Publication. **Ex. G.**

Service by Publication upon Defendants was completed by the Sun Sentinel newspaper in the area of Defendants’ residence on October 6, 2016 and proof of service was filed with the Richland County Clerk of Court on October 14, 2017. **Ex. H.**

Ten days later, Defendants’ current counsel contacted the undersigned via email asking for a copy of the pleadings filed to date, indicating his and his clients’ knowledge that service by publication had been accomplished. **Ex. I.** On the same date, the undersigned responded via email and provided the summon and complaint, order for service by publication, and a filed copy of the affidavit for service by publication, thereby providing Defendants’ counsel with proof of final service by publication as of October 6, 2016. *Id.* In closing, the undersigned said “[l]ook forward to hearing from you.” *Id.* Assuming Defendants’ counsel read the attachments provided by Truslow’s counsel, he was aware no later than October 24, 2016 that service had been accomplished on October 6, 2016. As a result, Defendants are also charged with knowledge of service by publication on October 6, 2016.

More than thirty (30) days passed after service by publication. No request for extension, notice of appearance, or any other communication was received. On November 14, 2016, the undersigned filed a motion for default judgment and provided an email copy of the motion to Defendants’ counsel. **Ex. J.** The following day, the undersigned received an email from Defendants’ counsel indicating he had been “in the process of” preparing an answer when the Affidavit of Default had been served upon him, and asking for consent to set aside the default. **Ex. K.** The undersigned declined, indicating the reasons why consent would not be forthcoming.

The email indicating that an answer was being prepared was received five (5) weeks after service by publication was complete, and three (3) weeks after proof of service on October 6, 2016 had been provided to Defendants and their counsel.

Defendants' new counsel transmitted a copy of a motion to set aside entry of default, which was received by the undersigned and the Richland County Clerk of Court (per online database) via U.S. Mail on November 18, 2016. Defendant's counsel also filed and served an Answer on behalf of Defendants, but the Answer was received after Motion for Entry of Default Judgment had been filed and was therefore not viable.

Judge Benjamin entered Default Judgment against Defendants by order dated November 29, 2016.

DEFAULT JUDGMENT FOLLOWING SERVICE BY PUBLICATION

In an action where service is effected by publication and the defendant is a non-resident, default judgment shall not be entered unless "the defendant have been examined on oath respecting any payments that have been made to the plaintiff. . ." together with an affidavit showing "an attachment has been issued in the action and levied upon property belonging to defendant, which affidavit shall contain a specific description of such property, and a statement of its value. . ." Rule 55(b)(4), SCRCP.

While no published South Carolina decision has construed this particular section of Rule 55¹, the Court of Appeals has noted that the notice requirements of Rule 55 exist to insure that defendants receive due process in connection with proceedings in which a default is entered. *Dymon Inc. v. Hyman*, 305 S.C. 170, 406 S.E.2d 388 (Ct. App. 1991).

¹ There is no federal counterpart to this rule against which to compare South Carolina law.

While Plaintiff did not file proof of an examination under oath of these Defendants with his Motion for Entry of Default Judgment, the complaint itself with the incorporated exhibits, established these facts. **Complaint Ex. A, B.**

Additionally, Protopapas' answer acknowledged that he had been counsel for the Defendants for a time, that he had received \$100,000.00 on their behalf, and that he continued to hold the amount of \$35,132.55 in his trust account. It also admitted that Defendants had been made aware by Protopapas of the charging lien being asserted by Truslow. **Protopapas Answer ¶¶ 6 & 7.**

That filing by Defendant's prior counsel Protopapas, established Defendants' knowledge of the lien asserted by Truslow, and that Protopapas continued to hold remainder of the \$100,000.00 that Protopapas had received, in the amount of \$35,132.55 in trust pursuant to Truslow's charging lien².

After Defendants filed their Motion to Set Aside Default Judgment, Truslow served Requests to Admit to Defendants (limiting the discovery to issues raised by the Motion to Set Aside Default). In their responses, Defendants admitted:

1. Protopapas "was not allowed to accept service [of the complaint in this action] on [Defendants'] behalf."
4. "Defendants admit that they were aware no later than October 24, 2016 that service by publication has been authorized by this Court."
5. "Defendants admit that they had notice of the litigation no later than November 1, 2016."

² Defendants' own answer, filed after the Motion for Entry of Default, also established Defendants' knowledge of Truslow's "charging lien for costs and fees" and that Protopapas was holding the disputed funds in trust. **Defendants' Answer ¶¶ 34 and 39.**

6. “Defendants admit that they received a copy of the complaint no later than November 1, 2016.
9. “Defendants admit they received a portion of settlement funds in the action. . .”

Exhibit L.

Of course, the Court can readily tell that the statements in No. 5 and 6 are attempts to mislead, because Defendants’ counsel had proof in hand on October 24, 2016 that the complaint had been filed and service on his clients has been completed on October 6, 2016. Additionally, after acknowledging that Protopapas was not allowed to accept service of the pleadings in this action (because he apparently contacted them and made them aware of the request to accept service), Defendants disingenuously claim they “cannot recall a specific date upon which they became aware that a lawsuit had been filed and that service was being attempted”. *Id.* at ¶ 2. However, by their answer to RTA No. 1, Defendants acknowledged that refused to allow Protopapas to accept service on their behalf. That communication was received by the undersigned on August 22, 2016. **Ex. E.** Therefore, the suggestion that Defendants “cannot recall” the date upon which they first became aware of the lawsuit is an untruth, intended to mislead this Court and Truslow and to subvert these proceedings.

The appellate courts of this state have stated that “due process” is a fluid doctrine to be applied based on the circumstances of the case. *Capers v. Flautt*, 305 S.C. 254, 407 S.E.2d 660 (Ct. App. 1991). “Due process is flexible and calls for such procedural protections as the particular situation demands.” *Stono River Environmental Protection Association v. South Carolina Department of Health and Environmental Control*, 305 S.C. 90, 406 S.E.2d 340 (1990), citing *Morrissey v. Brewer*, 408 U.S. 471, 481, 92 S. Ct. 2593, 2600, 33 L. Ed 2d 484 (1972).

The protections afforded by Rule 55(b)(4) exist to insure that default judgment is not entered unless the Court can determine from the record that a defendant has had sufficient notice of the relief being requested. Here, Defendants:

- had counsel when this dispute arose,
- refused to negotiate with Truslow,
- refused to allow Protopapas to accept service of this complaint,
- accepted the net proceeds of the settlement from Protopapas while refusing to allow him to disburse earned fees to Truslow,
- acknowledged they were aware of Truslow's charging lien, and
- consistently evaded service.

Even when Defendants' current counsel was provided with the pleadings and a copy of the proof of service by publication, no effort was made by Defendants or their counsel to acknowledge service, verify the date of service or to request additional time to respond. Indeed, it is clear that Defendants are in no hurry to have to respond to Truslow's claim, and only did so almost a full year after the dispute has arisen and only when they had run out of delaying tactics. **Ex. D.**

Truslow respectfully asserts that more than sufficient evidence existed at the time default judgment was entered for the Court to satisfy itself that Defendants' due process rights were protected. Additionally, those matters filed and served after entry of Default Judgment simply verify Defendants' knowledge of all of the essential elements of this claim at the time Default Judgment was entered against them.

STANDARD FOR SETTING ASIDE DEFAULT

The rest is easy. In order for default to be set aside, Defendants have the burden of establishing "good cause" for why they did not timely answer the complaint in this action. A

determination of “good cause” requires the Defendants to show “an explanation for the default” and “give reasons why vacation of the default. . .would serve the interests of justice.” *Regions Bank v. Owens*, 402 S.C. 642, 741 S.E.2d 51 (Ct. App. 2013). Defendants can establish neither.

More importantly, because this is a default judgment, Defendants’ burden is established by Rule 60(b), which require, in addition to “good cause” and showing of “excusable neglect.” Instead, what the record establishes is just the opposite. Defendants had everything they could possibly need to answer the complaint in a timely fashion; they just chose not to ignore the deadline (not unlike the failure of Defendants to timely respond to requests to produce)³.

In their motion to set aside entry of default, Defendants assert that they have “endeavored to act promptly and swiftly to defend their rights in this case.” (Motion dated 11-16-2016, ¶ 10). That is not true. Not one thing Defendants have done suggest that to be true. Instead, Defendants assert because Truslow’s lawyer knew they had retained counsel to represent them, they should not have to comply with the mandated deadline. They assert that “common practice in Richland County is for a responding party to receive a 30-day extension to respond to a Complaint, so Defendants’ Answer is being filed well within the typical 60-day period.” *Id.* In other words, Defendants seek to blame Truslow for not giving them 60 days to answer the complaint (even though no request was made), and that must somehow constitute “good cause.”

Truslow can find no law that suggests a “local practice” of allowing a party to disobey the rules is grounds for good cause. Truslow agrees that lawyers typically, as a matter of courtesy, grant extensions to one another, but Defendants never asked for an extension. On the contrary, Defendants counsel knew that service was being attempted by publication when he contacted the undersigned and asked for copies of the pleadings.

³ See Memorandum In Support of Motion to Compel, filed and served contemporaneously with this memorandum.

Not only did Truslow's counsel provide Defendants' counsel with a copy of the complaint, she also provided a copy of the order for publication, and proof of service by publication. She invited communication. **Ex. I.** She received none⁴.

Courtesy of an extension of time might have been granted if a request had been made. However, when the first communication for Defendants' counsel was a request to set aside default, Truslow's counsel explained her reason for declining to agree to set aside default.

It had taken Truslow and his counsel four (4) months, the expenses of eight (8) service attempts through the Sheriff's Department in Florida and multiple service attempts by UPS, before he obtained an order authorizing service by publication. Courtesy left long before the Order for Publication was issued, especially when the Sheriff's attempts at service clearly indicated Defendants were purposefully evading service.

Defendants cannot establish good cause for their failure to timely file an answer in this action. Truslow would suggest that Defendants' pleadings do not even attempt to show good cause. The inquiry ends there.

Once a party has put forth a satisfactory explanation for the default (which has not occurred here), the trial court must also consider: (1) the timing of the motion for relief; (2) whether the defendant has a meritorious defense; and (3) the degree of prejudice to the plaintiff if relief is granted. *Sundown Operating Co. v. Intedge Indus., Inc.*, 383 S.C. 601, 681 S.E.2d 885 (2009); *Wham v. Shearson Lehman Bros., Inc.*, 298 S.C. 462, 465, 381 S.E.2d 499, 501-02 (Ct. App. 1989). The trial court need not make specific findings of fact for each factor if there is sufficient

⁴ Truslow's counsel had every reason to believe that, once Defendants' counsel saw the nature of the dispute and that clients were attempting to stiff a lawyer and prevent payment of an earned fee after having accepted the benefit of the lawyer's labor, Defendants' counsel would decline the representation. The lack of communication by Defendants' counsel, after an express invitation for communication by Defendants' counsel, confirmed that reasonable conclusion in the mind of Truslow's counsel.

evidentiary support on the record for the finding of the lack of good cause. *Dixon v. Besco Engineering, Inc.*, 320 S.C. 174, 179, 463 S.E. 2d 636, 639 (Ct. App. 1995).

While the Motion to Set Aside Default was promptly filed, none of the other criteria have been established. The “meritorious defense” purportedly shown is a reference to the answer that was filed after the deadline, which includes eight vague defenses and a “counterclaim” that simply contains more denials of the allegation of the complaint. Moreover, Defendants cannot overcome the acceptance created by their receipt, without objection, of the settlement proceeds obtained for them by Truslow. Moreover, there is no “excusable neglect.” There is neglect, certainly, but none that can be excused.

Rule 55(c), SCRCP, permits a party to move to set aside the entry of default; however, the trial court has the sound discretion over the decision to grant or deny relief from an entry of default. *Ricks v. Weinrauch*, 293 S.C. 372, 360 S.E.2d 535 (Ct App. 1987); *Williams v. Stalnaker*, 312 S.C. 373, 375, 440 S.E.2d 408, 409 (Ct. App. 1994).

It is respectfully asserted that Defendants’ motion lacks merit and should be denied.

**Desa
Ballard**

Digitally signed by Desa Ballard
DN: cn=Desa Ballard, o=Ballard &
Watson, ou=Ballard & Watson,
email=desab@desaballard.com,
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COUNSEL FOR PLAINTIFF

July 7, 2017

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION**

Stephen Bretzinger and Lindsey Holsinger,	)	Civil Action No. 0:13-cv-02771-JMC
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
Crestwood Homes, LLC d/b/a Scenic	)	<u>ORDER AND OPINION</u>
Homes, Paul Meng, James Ray, Reggie	)	
Lee McGaugh, Susan Meng, Mary Beth	)	
McGaugh, and Susan Ray,	)	
	)	
Defendants.	)	
	)	

Plaintiffs Stephen Bretzinger and Lindsey Holsinger (collectively “Plaintiffs”) filed this action seeking damages from Defendants Crestwood Homes, LLC d/b/a Scenic Homes, Paul Meng, James Ray, Reggie Lee McGaugh, Susan Meng, Mary Beth McGaugh, and Susan Ray (collectively “Defendants”) resulting from their construction and sale to Plaintiffs of an allegedly defective house located at 2055 Covered Bridge Court, York County, South Carolina (the “Property”). (ECF No. 1.) Plaintiffs assert claims under state law against Defendants for breach of contract to construct an improvement to real property, breach of fiduciary duties, breach of the implied covenant of good faith and fair dealing, fraud, breach of contract accompanied by a fraudulent act, negligent misrepresentation, violation of the South Carolina Unfair Trade Practices Act, S.C. Code Ann. §§ 39-5-10 to -560 (1985 & Supp. 2011), fraudulent conveyance, unjust enrichment, civil conspiracy, breach of warranty, negligent construction, negligence per se, gross negligence, rescission, to void a contract for unconscionability, aiding and abetting wrongdoing, to pierce the corporate veil, and to collect on a judgment. (*Id.* at 7–22.)

This matter is before the court pursuant to Defendants’ Motion to Enforce Settlement Agreement. (ECF No. 55.) Plaintiffs oppose the pending Motion to Enforce Settlement. (ECF

No. 62.) For the reasons set forth below, the court **GRANTS** Defendants' Motion to Enforce Settlement.

I. RELEVANT BACKGROUND TO PENDING MOTION

The following relevant facts taken from the complaint are assumed to be true only for the purposes of the pending motion. Crestwood Homes, LLC ("Crestwood") is an "association of persons" that includes "Individual Defendants" Paul Meng, James Ray, Reggie Lee McGaugh, Susan Meng, Mary Beth McGaugh, and Susan Ray. (ECF No. 1 at 6 ¶ 44.) This action arises from a course of events that allegedly resulted in Plaintiffs entering into a residential contract with Crestwood on or about June 28, 2008 to purchase the Property. (*Id.* at 3 ¶ 24.) After closing on and receiving title to the Property, Plaintiffs became aware of specified defects in the Property. (*Id.* at 4 ¶¶ 27–28.) Plaintiffs allege that after they provided notice of the defects in the Property to Crestwood, it failed to remedy said defects in the Property thereby resulting in the Property sustaining significant additional damage. (*Id.* at 4 ¶ 29, 5 ¶¶ 31–32.)

On July 29, 2010, Plaintiffs filed a lawsuit against Crestwood in the York County (South Carolina) Court of Common Pleas. (ECF No. 1-2.) Crestwood did not answer or otherwise respond to the lawsuit. After entering default against Crestwood on or about January 18, 2011, the state court entered judgment for Plaintiffs on July 8, 2011 in the amount of \$876,000.00 against Crestwood. (ECF No. 1-4.)

Thereafter, on October 10, 2013, Plaintiffs filed a Complaint in this court alleging the aforementioned causes of action against Defendants. (ECF No. 1.) On November 5, 2013, Crestwood answered the Complaint generally denying its allegations. (ECF No. 9.) On November 18, 2013, Individual Defendants filed Motions to Dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(2). (ECF No. 16.) On September 5, 2014, the court denied

without prejudice Individual Defendants' Motions to Dismiss with leave to re-file after a period of limited jurisdictional discovery. (ECF No. 44.)

On September 26, 2014, the parties allegedly reached an agreement for the complete and final resolution and settlement of this case (the "Settlement Agreement"). (See ECF No. 55-1 at 5 ("They [Plaintiffs] accept and will settle for \$100,000.00" in exchange for a global release).) The Settlement Agreement and essential terms of the same were memorialized using the following language in an e-mail sent by Plaintiffs' counsel of record, Neal Truslow ("Truslow"), to Defendants' counsel on September 29, 2014:

To confirm the status of where we are:

Defendants have offered, and Plaintiffs have accepted, a \$100,000 (gross) global settlement to resolve this case. Defendants are drafting a full, final and complete release from Plaintiffs that ends litigation upon payment. This settlement shall be a final settlement of all claims – past, present, or future – by Plaintiffs against any/all Defendants (or associated entities, heirs, assigns, etc.) in this action, and specifically includes the prior State court action and this Federal action. Essentially, anything to do with the house in York County will be covered by this action. To the extent Plaintiffs have enrolled this judgment in any jurisdiction, they will say that same is satisfied, dissolved or otherwise abandoned. This is standard language included in any release, to my understanding.

(Id. at 2.) On or about October 7, 2014, Defendants' counsel prepared more formal settlement and release documents and provided the same to Plaintiffs' counsel. (ECF No. 55-2 at 3.) On October 29, 2014, Plaintiffs' counsel informed Defendants' counsel that Plaintiffs "desire[d] to nullify the settlement" and dismiss the case without prejudice. (ECF No. 55-3 at 2.)

On November 5, 2014, Defendants filed the instant Motion to Enforce Settlement. (ECF No. 55.) Plaintiffs filed their Response in Opposition to Defendants' Motion to Enforce Settlement on November 24, 2014. (ECF No. 62.) On December 9, 2014, the court heard argument from the parties on the pending Motion to Enforce Settlement. (ECF No. 71.)

II. LEGAL STANDARD AND ANALYSIS

A. Standard for Enforcing Settlement

“Settlement agreements are matters of contract law, and contract law principles apply.” Patel v. Barot, 15 F. Supp. 3d 648, 653 (E.D. Va. 2014). “Because exercise of the authority to enforce settlement agreements depends on the parties’ agreement to a complete settlement, the court cannot enforce a settlement until it concludes that a complete agreement has been reached and determines the terms and conditions of that agreement.” Hensley v. Alcon Labs., Inc., 277 F.3d 535, 540 (4th Cir. 2002) (citing Ozyagcilar v. Davis, 701 F.2d 306, 308 (4th Cir. 1983)). Therefore, “to exercise its inherent power to enforce a settlement agreement, a district court (1) must find that the parties reached a complete agreement and (2) must be able to determine its terms and conditions.” Id. at 540–41 (citing Moore v. Beaufort Cnty., 936 F.2d 159, 162 (4th Cir. 1991); Ozyagcilar v. Davis, 701 F.2d 306, 308 (4th Cir. 1983)). Accordingly, “if an agreement for complete settlement of the underlying litigation, or part of it, has been reached and its terms and conditions can be determined, the court may enforce the agreement summarily as long as the excuse for nonperformance of the agreement is ‘comparatively insubstantial.’” Id. at 540 (quoting Millner v. Norfolk & W. Ry. Co., 643 F.2d 1005, 1009 (4th Cir. 1981)). However, “[i]f there is a factual dispute over the existence of an agreement, over the authority of attorneys to enter into the agreement, or over the agreement’s terms, the district court may not enforce a settlement agreement summarily,” and it must instead conduct a hearing in order to resolve that dispute and make factual findings. Id. at 541 (citations omitted).

B. The Parties’ Arguments

1. *Defendants*

Defendants move the court to enforce an alleged settlement with Plaintiffs containing the

following terms and conditions:

Defendants have offered, and Plaintiffs have accepted, a \$100,000 (gross) global settlement to resolve this case. Defendants are drafting a full, final and complete release from Plaintiffs that ends litigation upon payment. This settlement shall be a final settlement of all claims – past, present, or future – by Plaintiffs against any/all Defendants (or associated entities, heirs, assigns, etc.) in this action, and specifically includes the prior State court action and this Federal action. Essentially, anything to do with the house in York County will be covered by this action. To the extent Plaintiffs have enrolled this judgment in any jurisdiction, they will say that same is satisfied, dissolved or otherwise abandoned. This is standard language included in any release, to my understanding.

(ECF No. 55-1 at 2.) In support of their Motion to Enforce Settlement, Defendants argue that Plaintiffs’ counsel “irrefutably confirmed the clear and ambiguous terms of the [S]ettlement [A]greement,” and the acts of an attorney are binding on the client. (ECF No. 55 at 1, 3 (citing Sadighi v. Daghighfekr, 66 F. Supp. 2d 752, 761 (D.S.C. 1999) (citation omitted)).) Defendants further argue that “[t]he writings between counsel of record in this case unequivocally demonstrate that: (1) the parties reached a complete agreement; and (2) the writings set forth the essential terms and conditions of the Settlement Agreement.” (ECF No. 55 at 3.) As a result, “Plaintiffs are bound by the actions of their attorneys” and the “Settlement Agreement is binding and enforceable upon the Plaintiffs.” (Id. at 3–4.) Based on the foregoing, Defendants request that the court enforce the Settlement Agreement and dismiss this action. (Id. at 4.)

2. *Plaintiffs*

Plaintiffs oppose the Motion to Enforce Settlement asserting that it should be denied because the emails attached to Defendants’ motion only “demonstrate that there was no commitment [to a settlement] and that critical terms were to be negotiated prior to any commitment.” (ECF No. 62 at 1.) Plaintiffs next assert that their counsel “did not have authority to bind either of the Plaintiffs to a settlement agreement” or “forfeit an outstanding State Court judgment against the Defendants.” (Id. at 7.) Finally, Plaintiffs assert that Defendants’ evidence

does not support a finding that Plaintiffs displayed the intent “to be bound to any purported settlement.” (Id. at 8.) As a result, Plaintiffs beseech the court to deny Defendants’ Motion to Enforce Settlement. (Id.)

C. The Court’s Review

Upon consideration of the parties’ arguments, the court finds that the terms of the parties’ alleged settlement are clearly set forth in the parties’ exhibits¹ and, therefore, the court should enforce the settlement unless it determines that the parties failed to reach a complete agreement. As to this issue, Plaintiffs argue that their counsel did not have either actual authority or apparent authority to settle the matter. (ECF No. 62 at 7.) As support for their argument, Plaintiffs submitted affidavits, which specifically stated that their attorneys were not authorized to settle the case (ECF Nos. 62-4 & 62-5), and cited to Rule 43(k), SCRCF, which rule provides that “[n]o agreement between counsel affecting the proceedings in an action shall be binding unless reduced to the form of a consent order or written stipulation signed by counsel and entered in the record, or unless made in open court and noted upon the record, or reduced to writing and signed by the parties and their counsel.”

In assessing the merits of Plaintiffs’ argument, the court observes that an attorney’s “authority to negotiate” on behalf of his client “is far different from the authority to agree to a specific settlement.” Auvil v. Grafton Homes, Inc., 92 F.3d 226, 231 (4th Cir. 1996). “It is generally accepted that when a client retains an attorney to represent him in litigation, absent an express agreement to the contrary, the attorney has implied authority to conduct the litigation and to negotiate its resolution.” Id. at 229–230. Moreover, under South Carolina law, absent fraud or mistake, counsel of record has the authority to settle litigation on behalf of their client.

¹ Defendants will pay \$100,000.00 to Plaintiffs in exchange for a full release of all claims. (ECF No. 55-1 at 2.)

Arnold v. Yarborough, 316 S.E.2d 416, 417 (S.C. Ct. App. 1984) (“Acts of an attorney are directly attributable to and binding upon the client.”) (Citation omitted); see also Poore v. Poore, 89 S.E. 569, 571 (S.C. 1916) (“It will never do, in the absence of fraud, to allow the undoubted attorneys of record for a party to a suit to enter into a solemn agreement to settle and adjust the issues and subject-matter of a suit and then later, if it is done, because for any reason the party is dissatisfied, to allow him to repudiate this agreement and employ different counsel to upset and set aside what his first counsel has done.”).

Upon review, the court finds that Truslow, Plaintiffs’ attorney of record, bound Plaintiffs when he stated his acknowledgement to the agreed upon terms of the settlement.² (See ECF No. 55-1 at 2 (“To confirm the status of where we are: Defendants have offered, and Plaintiffs have accepted, a \$100,000 (gross) global settlement to resolve this case I’ll be sure to consent [to a stipulation of dismissal] once we’ve got funds and you’ve got a signed release.”).) Under South Carolina law, Truslow’s actions bind Plaintiffs since there has not been a showing of fraud. Arnold, 316 S.E. 2d at 417 (“Litigants must necessarily be held bound by the acts of their attorneys in the conduct of a cause in court, in the absence, of course, of fraud.”) (Citation omitted). In this regard, neither Plaintiffs’ affidavits nor Rule 43(k), SCRPC, require the court to find otherwise. See, e.g., Surety Ins. Co. of Cal. v. Williams, 729 F.2d 581, 583 (8th Cir. 1984) (“We think that in meeting that burden the Williamses may not rely on their conclusory affidavit,

² There were communications relevant to the settlement made by an attorney, Peter Nosal, who was not counsel of record for Plaintiffs in this matter. (See, e.g., ECF No. 55-1 at 4 (“I understand your concerns. I have explained to them that the settlement will be contingent of a full release of any and all claims against all defendants. Pete.”) & 5 (“They accept and will settle for \$100,000.00. They have some concerns about the language in the release, but I am confident we can work that out. Pete.”).) The court does not rely on Nosal’s communications to establish Plaintiffs’ agreement to settle the matter. See, e.g., Andrulonis v. United States, No. 79-CV-847, 1995 WL 46331, at 2 (N.D.N.Y. Jan. 25, 1995) (“First, the court holds that no binding settlement agreement existed. Attorney Buskus was not the attorney of record in the district court, and counsel for the United States should have realized that agreement of the counsel of record was required before a settlement became binding.”).

but must establish through competent evidence that their attorney lacked actual, implied, or apparent authority to stipulate to an entry of judgment.”); Nationwide Mut. Ins. Co. v. Ruff, C/A No. 0:11-1011-CMC, 2011 WL 2491345, at *3 (D.S.C. June 22, 2011) (“[T]he South Carolina Rules of Civil Procedure govern actions brought in South Carolina courts, not federal courts, ...”); United States v. Hemmons, 774 F. Supp. 346, 350 (E.D. Pa. 1991) (“State rules of civil procedure do not apply in a federal court.”) (citing, e.g., U.S. Const. art. IV). Accordingly, the court concludes that the parties did reach a complete agreement to settle this matter, and the terms of that agreement are clearly discernible from the record.

III. CONCLUSION

For the reasons set forth above, the court hereby **GRANTS** Defendants’ Motion to Enforce Settlement Agreement. (ECF No. 55.) The court further **ORDERS** the parties to fulfill their obligations under the Settlement Agreement within 30 days of the date of entry of this Order. This action is hereby **DISMISSED**.

IT IS SO ORDERED.



United States District Judge

May 7, 2015
Columbia, South Carolina

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

ROCK HILL DIVISION
CIVIL ACTION NO.: 0:13-cv-02771-JMC

STEPHEN BRETZINGER AND LINDSEY)
HOLSINGER,)

Plaintiffs,)

vs.)

CRESTWOOD HOMES, LLC d/b/a)
SCENIC HOMES, PAUL MENG,)
JAMES RAY, REGGIE LEE McGAUGH,)
SUSAN MENG, MARY BETH)
McGAUGH and SUSAN RAY,)

Defendants.)

**NOTICE OF MOTION AND MOTION
TO BE RELIEVED AS COUNSEL FOR
PLAINTIFFS**

TO: DEFENDANTS CRESTWOOD HOMES, LLC d/b/a SCENIC HOMES, PAUL MENG, JAMES RAY, REGGIE LEE McGAUGH, SUSAN MENG, MARY BETH McGAUGH, AND SUSAN RAY, and their attorneys of record JASON ALAN PITTMAN, ESQUIRE, AND JOSEPH P. QUIRK, ESQUIRE:

YOU WILL PLEASE TAKE NOTICE that within ten (10) days or at such time as the Court finds proper, the undersigned will move before the Court for the following relief, *to wit*: An Order that relieves Plaintiffs' litigation counsel, Neal D. Truslow and Truslow & Truslow Law Firm, of responsibility for Plaintiffs' case pursuant to, *inter alia*, Local Rule 83.I.07(B).

This Motion is made on the grounds that irreconcilable differences and fundamental disagreements have arisen between Plaintiffs Stephen Bretzinger and Lindsay Holsinger and their litigation counsel, Neal D. Truslow of Truslow & Truslow Law Firm, such that counsel desires to terminate their relationship and be relieved of responsibility for Plaintiffs' case. In support of this

Motion, Plaintiffs' litigation counsel submits the following:

1. Neal D. Truslow of Truslow & Truslow Law Firm is currently litigation counsel of record for Plaintiffs.
2. Peter J. Nosal of Nosal & Jeter Law Firm, LLP has not filed a Notice of Appearance on behalf of Plaintiffs, but was the attorney for Plaintiffs who hired Neal D. Truslow to be Plaintiffs' litigation counsel. Upon information and belief, Mr. Nosal is a member in good standing with the State Bar of South Carolina and the United States District Court for the District of South Carolina.
3. The undersigned has reached a fundamental disagreement with Plaintiffs such that his representation of Plaintiffs cannot continue.¹ As such, the undersigned has repeatedly requested that Plaintiffs permit him to withdraw as counsel due to the irreconcilable differences and fundamental disagreements, but at the date of the within Motion Plaintiffs have refused to grant their consent to that request. The undersigned now requests the Court allow both him and his law firm to withdraw as Plaintiffs' counsel.
4. This withdrawal is without substitution of counsel. It will likely delay any hearing(s), trial(s) or progress of this action, but such a delay should not be of an unreasonable time. Given the history and status of this matter, such delay would be necessary to protect Plaintiffs' case. Notably, there is an impending discovery deadline that would certainly need to be extended for a reasonable amount of time for Plaintiffs to retain new counsel and get him/her up to speed on the matter.
5. The substance of this motion has been communicated to counsel for Defendants, who indicate that they do not oppose and consent to this withdrawal of counsel.
6. The undersigned represents that Plaintiffs have been consulted regarding the withdrawal of Neal D. Truslow and Truslow & Truslow Law Firm as counsel, and Plaintiffs do not consent to this Motion. Plaintiffs' mailing address and phone number are as follows:

a. Stephen Bretzinger (Plaintiff)

Address: 3741 NW 71ST Street, Coconut Creek, Florida 33073

Telephone: (954) 426-0492 (H) or (704) 402-9803 (C)

¹ The undersigned submits that there are compelling reasons necessitating his withdrawal that include aspects of South Carolina Rules for Professional Conduct 1.2, 1.4, 1.16, 2.1, and 3.1.

e-mail: stephen.bretzinger@gmail.com

b. Lindsey Holsinger (Plaintiff)

Address: 3741 NW 71ST Street, Coconut Creek, Florida 33073

Telephone: (954) 426-0492 (H)

e-mail: lhbretzinger@gmail.com

c. Peter J. Nosal (Plaintiffs' Counsel)

Address: 852 Gold Hill Road #201

Fort Mill, SC 29708

Telephone: (803) 351-3597

e-mail: pete@nosaljeterlaw.com

7. The undersigned anticipates that the Court may find it necessary to hold a hearing to look into this matter further. Should the Court require such a hearing, the undersigned requests that such a hearing be closed and the details therein sealed, for the protection of the Plaintiffs.
8. Pursuant to Local Rule 83.1.07(B)(3), the undersigned certifies that the Plaintiffs have been provided a copy of the within Motion and an explanation of their right to object to withdrawal. The explanation informed the Plaintiffs of the date the motion would be filed and states that any response must be received by the court within seventeen (17) days of the filing date. Since the Plaintiffs are natural persons, the explanation shall advise that the response may be in the form of a letter signed by the Plaintiffs.

WHEREFORE, the undersigned respectfully requests that the Court enter an Order allowing Neal D. Truslow and Truslow & Truslow Law Firm to withdraw as counsel and be relieved of any further duties as counsel of record for Defendants.

/s/ Neal D. Truslow
NEAL D. TRUSLOW
TRUSLOW & TRUSLOW, P.A.
Attorney for Plaintiff
Post Office Box 1465
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Phone: (803) 256-6276
Fax: (803) 256-7659
Attorney I.D. #: 10676

Attorney for Plaintiffs

Columbia, South Carolina

October 22, 2014

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

ROCK HILL DIVISION
CIVIL ACTION NO.: 0:13-cv-02771-JMC

STEPHEN BRETZINGER AND LINDSEY)
HOLSINGER,)

Plaintiffs,)

vs.)

CERTIFICATE OF SERVICE

CRESTWOOD HOMES, LLC d/b/a)
SCENIC HOMES, PAUL MENG,)
JAMES RAY, REGGIE LEE McGAUGH,)
SUSAN MENG, MARY BETH)
McGAUGH and SUSAN RAY,)

Defendants.)

This is to certify that on this 22 day of October 2014, a true and correct copy of the **NOTICE OF MOTION AND MOTION TO BE RELIEVED AS COUNSEL FOR PLAINTIFFS** is being electronically transmitted to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

COUNSEL SERVED:

Jason A. Pittman (Fed. Id.# 10270)
R. Trippett Boineau, III (Fed. Id.# 9936)
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Joseph P. Quirk, Esq.
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Quirk & Quirk, LLC
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300 Century Springs West

Atlanta, Georgia 30328
Phone: (404) 252-1425
Facsimile: (404) 671-9135
E-Mail: jpq@quirklaw.com

OTHERS SERVED VIA EMAIL AND US MAIL

Stephen Bretzinger (Plaintiff)
Address: 3741 NW 71ST Street, Coconut Creek, Florida 33073
e-mail: stephen.bretzinger@gmail.com

Lindsey Holsinger (Plaintiff)
Address: 3741 NW 71ST Street, Coconut Creek, Florida 33073
e-mail: lhbretzinger@gmail.com

Peter J. Nosal (Plaintiffs' Counsel)
Address: 852 Gold Hill Road #201
Fort Mill, SC 29708
e-mail: pete@nosaljeterlaw.com

s/ Neal D. Truslow

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Stephen Bretzinger and Lindsay
Holsinger,

Plaintiffs,

vs.

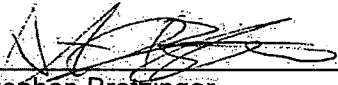
Crestwood Homes, LLC d/b/a Scenic
Homes, Paul Meng, James Ray,
Reggie Lee McGaugh, Susan Meng,
Mary Beth McGaugh, and Susan Ray,

Defendants.

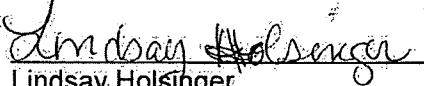
CASE NO: 0:13-CV-2771-JMC

**PLAINTIFFS' CONSENT TO
WITHDRAWAL OF COUNSEL**

The Plaintiffs, Stephen Bretzinger and Lindsay Holsinger, having retained new counsel, Peter D. Protopapas, of Rikard & Protopapas and Matthew Rosbrugh of the MBR, LLC, to represent them in the above referenced matter, hereby withdraw their opposition and consent to Neal D. Truslow and Truslow & Truslow Law Firm being relieved as counsel and relieved of any further duties as counsel of record for Plaintiffs.


Stephen Bretzinger

12/03/2014


Lindsay Holsinger

12-3-14

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633

Peter:

Are you authorized to accept service of the DJ action?

Respectfully,

Neal

Neal D. Truslow
ATTORNEY AT LAW

Truslow & Truslow, P.A.
Phone: 803.256.6276
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Columbia, SC 29202

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From: Neal Truslow
Sent: Friday, October 16, 2015 8:46 AM
To: 'Peter Protopapas' <pdp@rplegalgroup.com>; Jo Boyd <jboyd@rplegalgroup.com>
Cc: Mackenzie Woodward <mackenziewoodward@truslowlaw.com>
Subject: RE: Bretzinger

Peter:

This morning is best for me. What time should I call you?

Respectfully,

Neal

Neal D. Truslow

Truslow & Truslow, P.A.
Phone: 803.256.6276
Fax: 803.256.7659
Website: <http://www.truslowlaw.com/>
Email: nealtruslow@truslowlaw.com

Physical Address:
914 Richland Street, Ste. B-102
Columbia, SC 29201

Mailing Address:
PO Box 1465
Columbia, SC 29202

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From: Peter Protopapas [<mailto:pdp@rplegalgroup.com>]
Sent: Thursday, October 15, 2015 6:34 PM
To: Neal Truslow <nealtruslow@truslowlaw.com>; Jo Boyd <jboyd@rplegalgroup.com>
Cc: Pete Nosal <pete@nosajeterlaw.com>; Mackenzie Woodward <mackenziewoodward@truslowlaw.com>
Subject: RE: Bretzinger

Lets talk tomorrow

Peter D. Protopapas
RIKARD & PROTOPAPAS, LLC
1329 Blanding Street
Columbia, South Carolina 29201
Telephone: 803.978.6111
Facsimile: 803.978.6112
pdp@rplegalgroup.com

From: Neal Truslow [<mailto:nealtruslow@truslowlaw.com>]
Sent: Thursday, October 15, 2015 11:08 AM
To: Peter Protopapas <pdp@rplegalgroup.com>; Jo Boyd <jboyd@rplegalgroup.com>
Cc: Pete Nosal <pete@nosajeterlaw.com>; Mackenzie Woodward <mackenziewoodward@truslowlaw.com>
Subject: RE: Bretzinger

Peter:

Any word?

Respectfully,

Neal

Neal D. Truslow
ATTORNEY AT LAW

Truslow & Truslow, P.A.
Phone: 803.256.6276
Fax: 803.256.7659
Website: <http://www.truslowlaw.com/>
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From: Neal Truslow
Sent: Thursday, October 08, 2015 1:13 PM
To: 'Peter Protopapas' <pdp@rplegalgroup.com>; 'Jo Boyd' <jboyd@rplegalgroup.com>
Cc: 'Pete Nosal' <pete@nosajeterlaw.com>; Mackenzie Woodward <mackenziewoodward@truslowlaw.com>
Subject: RE: Bretzinger

Peter:

I hope you and yours are safe from all the flooding. Please give me a call.

Respectfully,

Neal

Neal D. Truslow
ATTORNEY AT LAW

Truslow & Truslow, P.A.
Phone: 803.256.6276

Fax: 803.256.7659
Website: <http://www.truslowlaw.com/>
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From: Neal Truslow
Sent: Thursday, October 01, 2015 3:59 PM
To: 'Peter Protopapas' <pdp@rplegalgroup.com>
Cc: 'Pete Nosal' <pete@nosajeterlaw.com>; Mackenzie Woodward <mackenziewoodward@truslowlaw.com>
Subject: RE: Bretzinger

Peter:

Did we get anywhere with the last proposal? Side note: I thought the ODC defense you put up for Naert was really good – what a unique matter to deal with.

Respectfully,

Neal

Neal D. Truslow
ATTORNEY AT LAW

Truslow & Truslow, P.A.
Phone: 803.256.6276
Fax: 803.256.7659
Website: <http://www.truslowlaw.com/>
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From: Neal Truslow
Sent: Wednesday, September 16, 2015 5:02 PM
To: 'Peter Protopapas' <pdp@rplegalgroup.com>
Cc: Pete Nosal <pete@nosaljeterlaw.com>; Mackenzie Woodward <mackenziewoodward@truslowlaw.com>
Subject: RE: Bretzinger

I thought you had already relayed that to me. Sounds like I should just file suit then...

Respectfully,

Neal

Neal D. Truslow
ATTORNEY AT LAW

Truslow & Truslow, P.A.
Phone: 803.256.6276
Fax: 803.256.7659
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From: Peter Protopapas [<mailto:pdp@rplegalgroup.com>]
Sent: Wednesday, September 16, 2015 4:59 PM
To: Neal Truslow <nealtruslow@truslowlaw.com>
Cc: Pete Nosal <pete@nosajeterlaw.com>; Mackenzie Woodward <mackenziewoodward@truslowlaw.com>
Subject: RE: Bretzinger

I do not believe they are willing to go to a fee dispute board.

Peter D. Protopapas
RIKARD & PROTOPAPAS, LLC
1329 Blanding Street
Columbia, South Carolina 29201
Telephone: 803.978.6111
Facsimile: 803.978.6112
pdp@rplegalgroup.com

From: Neal Truslow [<mailto:nealtruslow@truslowlaw.com>]
Sent: Wednesday, September 16, 2015 4:54 PM
To: Peter Protopapas <pdp@rplegalgroup.com>
Cc: Pete Nosal <pete@nosajeterlaw.com>; Mackenzie Woodward <mackenziewoodward@truslowlaw.com>
Subject: RE: Bretzinger

Peter:

Since I have not had a response from you, I'm evaluating the options. I hate that it has come to this, but I haven't received a substantive response in weeks.

I spoke to Desa Ballard this afternoon. Because you've indicated that the clients will not go to a fee dispute board, it seems like the choices are to:

1. File a DJ action naming you and the Bretzingers, or
2. File a breach of contract action against the Bretzingers.

Did I miss an option? Please let me know what you want me to do.

I imagine I know what kind of position you're in with the clients (having been there myself), but this has gone on long enough. If I don't have an answer by COB Friday, I can simply make the election Monday.

Respectfully,

Neal

Neal D. Truslow
ATTORNEY AT LAW

Truslow & Truslow, P.A.
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From: Neal Truslow

Sent: Monday, September 14, 2015 4:00 PM

To: 'Jo Boyd' <jboyd@rplegalgroup.com>; Peter Protopapas <pdp@rplegalgroup.com>; Matthew Rosbrugh <mrosbrugh@mindspring.com>

Cc: Pete Nosal <pete@nosajeterlaw.com>

Subject: RE: Bretzinger

Peter:

Can we get together on this?

Respectfully,

Neal

Neal D. Truslow
ATTORNEY AT LAW

Truslow & Truslow, P.A.
Phone: 803.256.6276
Fax: 803.256.7659
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From: Jo Boyd [<mailto:jboyd@rplegalgroup.com>]

Sent: Friday, September 04, 2015 11:35 AM

To: Neal Truslow <nealtruslow@truslowlaw.com>; Peter Protopapas <pdp@rplegalgroup.com>; Matthew Rosbrugh <mrosbrugh@mindspring.com>

Cc: Pete Nosal <pete@nosajeterlaw.com>

Subject: RE: Bretzinger

Mr. Truslow,

Peter is out of town and won't be back in the office until Tuesday. He teaches a class Tuesday morning, but other than that, he should be here all day.

Jo



Rikard & Protopapas, LLC

Attorneys and Counselors at Law

Jo-Elaine Boyd

Paralegal

RIKARD & PROTOPAPAS

1329 Blanding Street

Columbia, South Carolina 29201

Telephone: 803.978.6111

Facsimile: 803.978.6112

Email: jboyd@rplegalgroup.com

Website: www.rplegalgroup.com

Mailing Address:

Post Office Box 5640

Columbia, South Carolina 29250

From: Neal Truslow [<mailto:nealtruslow@truslowlaw.com>]

Sent: Friday, September 04, 2015 11:18 AM

To: Peter Protopapas; Matthew Rosbrugh

Cc: Pete Nosal; Jo Boyd

Subject: RE: Bretzinger

Peter:

I never heard back from you. Should we talk today?

Respectfully,

Neal

Neal D. Truslow
ATTORNEY AT LAW

Truslow & Truslow, P.A.
Phone: 803.256.6276
Fax: 803.256.7659
Website: <http://www.truslowlaw.com/>
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From: Neal Truslow
Sent: Friday, August 28, 2015 9:23 AM
To: Peter Protopapas <pdp@rplegalgroup.com>; Matthew Rosbrugh <mrosbrugh@mindspring.com>
Cc: Pete Nosal <pete@nosaljeterlaw.com>; Jo Boyd <jboyd@rplegalgroup.com>
Subject: RE: Bretzinger

Peter:

Should you and I have a quick telephone call today?

Respectfully,

Neal

Neal D. Truslow
ATTORNEY AT LAW

Truslow & Truslow, P.A.
Phone: 803.256.6276
Fax: 803.256.7659
Website: <http://www.truslowlaw.com/>
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From: Neal Truslow
Sent: Thursday, August 27, 2015 5:17 PM
To: Peter Protopapas <pdp@rplegalgroup.com>; Matthew Rosbrugh <mrosbrugh@mindspring.com>
Cc: Pete Nosal <pete@nosajeterlaw.com>; Jo Boyd <jboyd@rplegalgroup.com>
Subject: Re: Bretzinger

They're not doing anyone (especially you) any favors. Sounds like we should just file a DJ action. Thoughts?

Sent using OWA for iPhone

From: Peter Protopapas <pdp@rplegalgroup.com>
Sent: Thursday, August 27, 2015 4:38:27 PM
To: Neal Truslow; Matthew Rosbrugh
Cc: Pete Nosal; Jo Boyd
Subject: RE: Bretzinger

I don't think the client is going to agree to anything in the short term. The clients are coming in to sign the satisfaction of judgment next Tuesday and I will talk about it more with them

Peter D. Protopapas
RIKARD & PROTOPAPAS, LLC
1329 Blanding Street

Columbia, South Carolina 29201
Telephone: 803.978.6111
Facsimile: 803.978.6112
pdp@rplegalgroup.com

From: Neal Truslow [<mailto:nealtruslow@truslowlaw.com>]
Sent: Thursday, August 27, 2015 4:12 PM
To: Matthew Rosbrugh <mrosbrugh@mindspring.com>
Cc: Peter Protopapas <pdp@rplegalgroup.com>; Pete Nosal <pete@nosajeterlaw.com>; Jo Boyd <jboyd@rplegalgroup.com>
Subject: RE: Bretzinger

Peter:

Are you back from vacation? I had this on my calendar to follow up if I had not heard back in 2 weeks.

Respectfully,

Neal

Neal D. Truslow
ATTORNEY AT LAW

Truslow & Truslow, P.A.
Phone: 803.256.6276
Fax: 803.256.7659
Website: <http://www.truslowlaw.com/>
Email: nealtruslow@truslowlaw.com

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From: Neal Truslow
Sent: Thursday, August 13, 2015 11:24 AM
To: 'Matthew Rosbrugh' <mrosbrugh@mindspring.com>

Cc: Peter Protopapas <pdp@rplegalgroup.com>; Pete Nosal <pete@nosaljeterlaw.com>; Jo Boyd <jboyd@rplegalgroup.com>

Subject: RE: Bretzinger

Matt:

Thanks. I'll just wait to hear back from them.

Hope you're well.

Respectfully,

Neal

Neal D. Truslow

ATTORNEY AT LAW

Truslow & Truslow, P.A.

Phone: 803.256.6276

Fax: 803.256.7659

Website: <http://www.truslowlaw.com/>

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From: Matthew Rosbrugh [<mailto:mrosbrugh@mindspring.com>]

Sent: Thursday, August 13, 2015 11:22 AM

To: Neal Truslow <nealtruslow@truslowlaw.com>

Cc: Peter Protopapas <pdp@rplegalgroup.com>; Pete Nosal <pete@nosaljeterlaw.com>; Jo Boyd <jboyd@rplegalgroup.com>

Subject: Re: Bretzinger

Neal,

Peter is on vacation in Greece and has been for a couple weeks. I think Jo may have been or may still be on vacation as well. I'm just the night watchman for this case. I'm sure Peter will get back to you when he gets back and gets settled in.

Matt

Matthew B. Rosbrugh
MBR Law, LLC
Post Office Box 292290
Columbia, South Carolina 29229
o) 803 753 1432
f) 803 419 9614
mrosbrugh@mindspring.com
matt@mbrlawllc.com
www.mbrlawllc.com

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On Aug 13, 2015, at 11:19 AM, Neal Truslow <nealtruslow@truslowlaw.com> wrote:

Peter:

I believe we are about 7 weeks out from our last communications. Are you in a better position to advise at this point?

Respectfully,

Neal

Neal D. Truslow
ATTORNEY AT LAW

Truslow & Truslow, P.A.
Phone: 803.256.6276
Fax: 803.256.7659
Website: <http://www.truslowlaw.com/>
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From: Peter Protopapas [<mailto:pdp@rplegalgroup.com>]

Sent: Thursday, June 25, 2015 10:43 AM

To: Neal Truslow <nealtruslow@truslowlaw.com>; Pete Nosal <pete@nosajeterlaw.com>

Cc: 'Matthew Rosbrugh' (mrosbrugh@mindspring.com)' <mrosbrugh@mindspring.com>; Jo Boyd <jboyd@rplegalgroup.com>

Subject: RE: Bretzinger

Neal

Thank you for your email. I spoke with my clients and they are confused as to how to proceed. I have not been given authority to even deposit the settlement check.

Once I hear from them (Friday or Monday) I will advise.

Peter

Peter D. Protopapas
RIKARD & PROTOPAPAS, LLC
1329 Blanding Street
Columbia, South Carolina 29201
Telephone: 803.978.6111
Facsimile: 803.978.6112
pdp@rplegalgroup.com

From: Neal Truslow [<mailto:nealtruslow@truslowlaw.com>]

Sent: Thursday, June 25, 2015 10:31 AM

To: Peter Protopapas; Pete Nosal

Cc: 'Matthew Rosbrugh' (mrosbrugh@mindspring.com)'; Jo Boyd

Subject: RE: Bretzinger

Peter:

I'm glad to have heard from you. I did not expect a prompt response after Jason's last email as I know this is a difficult time of year for the Bretzinger family. I did not want to bother you or them during such a time of grief. Please extend my (and Pete's) condolences to them.

I've given your email below some thought and promised you a response before I leave for my vacation. I spoke to Pete Nosal and he has agreed to allow me to write on behalf of both of us.

Your email below seems to indicate that the Bretzinger family does not contest that 1) litigation costs are owed and that 2) the Bretzinger family is entitled to the agreed upon percentage of recovery from the \$100,000. However, the Bretzinger family is apparently contesting the agreed upon legal fee, though what percentage is unknown (since the entire legal fee is being held, I presume that means all of it is contested). I am confident that the amount and quality of work done on this case certainly justifies the fee. Further, the fact that it was a contingency (and not an hourly) arrangement certainly inures to the benefit of the Bretzingers.

I have no intentions on "withholding" uncontested proceeds from disbursement to the Bretzinger family. However, if it is their intent to contest the legal fee in whole or in part, I propose that the appropriate (and immediate) steps be taken to get before the Fee Dispute Board. I understand that the rules require the consent of the clients, so it would be much easier if they simply initiated the proceeding. Otherwise, it seems that you're going to be placed in an untenable position for obvious reasons and there will be choices that need to be made.

As a good faith offer to resolve this matter, I'm willing to take a \$2,000 "haircut". This amount signifies the estimated amount of time that would be required to deal with any sort of fee dispute board or DJ action. I will be out of the country starting tomorrow and will be back in the office after the 4th of July. I expect that provides you with a sufficient amount of time to reach out to the Bretzingers – please let me know if I am mistaken.

Respectfully,

Neal

Neal D. Truslow
ATTORNEY AT LAW

Truslow & Truslow, P.A.
Phone: 803.256.6276
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From: Peter Protopapas [<mailto:pdp@rplegalgroup.com>]
Sent: Tuesday, June 23, 2015 1:33 PM
To: Neal Truslow; Pete Nosal
Cc: 'Matthew Rosbrugh' (mrosbrugh@mindspring.com); Jo Boyd
Subject: FW: Bretzinger

Neal, Apologies for the below mix up on email addresses.

Peter

From: Peter Protopapas
Sent: Tuesday, June 23, 2015 12:15 PM
To: 'Pete Nosal'; 'Nelson' (ntaylor1@pbtcomm.net)
Cc: 'Matthew Rosbrugh' (mrosbrugh@mindspring.com); Jo Boyd
Subject: Bretzinger

Gentlemen

I currently have \$100,000 sitting in my trust account. It is my understanding that you are claiming a lien for 33 1/3 % plus \$2,132.55 in costs. As a result, I will hold \$35,465.88 in my trust account and disburse the remainder of \$64,534.12 to the client.

Please advise if that meets with your approval.

Peter D. Protopapas
RIKARD & PROTOPAPAS, LLC
1329 Blanding Street
Columbia, South Carolina 29201
Telephone: 803.978.6111
Facsimile: 803.978.6112
pdp@rplegalgroup.com

Beth Cogan

From: Peter Protopapas <pdp@rplegalgroup.com>
Sent: Monday, August 22, 2016 1:56 PM
To: Desa Ballard
Subject: Bretzingers

It was good talking with you and I want to repeat that I am not allowed to accept service on the Bretzingers.

Peter

Peter D. Protopapas
Rikard & Protopapas, LLC
1329 Blanding Street
Columbia, SC 29201
T: 803-978-6111
F: 803-978-6112

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-40-03728

Neal Truslow,)
Plaintiff,)

**AFFIDAVIT OF
MARA BALLARD**

vs.)

Stephen Bretzinger,)
Lindsey Holsinger, and)
Rikard & Protopapas, LLC)

Defendant.

Personally appeared before me, Mara Ballard, being duly sworn, deposes and says:

1. I am over the age of eighteen (18) years and am competent to state the matters set forth herein. I have personal knowledge of the matters stated, except as to those matters stated upon information and belief, and as to those, I have a good faith basis for believing them to be true.
2. I am an employee of the law firm Ballard & Watson, who represent the Plaintiff Truslow in the above-captioned action.
3. Upon information and belief, the Defendants Bretzinger and Holsinger live at 7686 Corkwood Ave., Boynton Beach, Florida. That address is located in the county of Palm Beach.
4. On June 30, 2016, I forwarded two copies of the filed Summons and Complaint in this action to the Palm Beach County Sheriff's Department, together with the appropriate fee, for personal service upon Defendants Bretzinger and Holsinger.



5. On or about August 5, 2016, the Palm Beach County Sheriff's Department returned copies of the Summons and Complaint with their completed form, captioned as "Palm Beach County Sheriff's Office Original Return." Exhibit A. That form provides details regarding the eight (8) attempts made at personal service by the sheriff's department. There was a form for both Defendant Bretzinger and Defendant Holsinger.
6. The enclosed forms contain information from Officer O'Rourke,¹ the signatory on the form, wherein he notes witnessed activity that suggests Defendants may be avoiding service of process.
7. Relying upon information from Officer O'Rourke that Defendant Holsinger had picked up a UPS package, I prepared two UPS Overnight delivery packages, each containing a cover letter and a copy of the filed Summons and Complaint. I purchased a restriction on the delivery to require adult signature upon delivery. The tracking numbers for these packages were 1ZF6997AA492807820 (Holsinger) and 1ZF6697AA490539212 (Bretzinger).
8. I placed the UPS packages in the UPS drop box located at the Bank of America Building (440 Knox Abbott Dr. Cayce, SC) on the evening of August 17, 2016, prior to the last published pick up time for that location.
9. Attached as Exhibit B are the UPS tracking information sheets for both packages. As noted, four attempts were made to deliver the overnight packages, without success.

¹ Dennis O'Rourke, Badge Number 7505.

MDR

The packages were returned to me by UPS on August 29, 2016, and I received them on August 31, 2016.

10. I have located a newspaper in Palm Beach County, the SunSentinel, which would be suitable for service and be most likely to give notice to the Defendants to be served.

Further affiant sayeth not.


Mara T. Ballard, CFE, CMA

September 8, 2016

SWORN to and Subscribed before me,
This 8th day of September, 2016


Elizabeth Cogan
Notary Public for South Carolina.
My Commission expires: 11/01/2023.

PALM BEACH COUNTY SHERIFF'S OFFICE ORIGINAL RETURN



Court: COMMON PLEAS
Case No.: 2016CP4003728
County: RICHLAND

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LINDSEY HOLSINGER

7686 CORKWOOD AVENUE
BOYNTON BEACH, FL 33437

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HARVEY M. WATSON, III, ESQ.
P.O. BOX 6338
WEST COLUMBIA, SC 29171

SUMMONS & COPY & COPY
OF COMPLAINT

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STEPHEN BRETZINGER, LINDSEY
HOLSINGER, ETC.

Received this Writ on July 18, 2016 at 10:21 AM and was unexecuted on August 5, 2016, in Palm Beach County, Florida, a true copy of this Writ, endorsed thereon by me, Dennis O'Rourke.

Attempts:

7/20/2016 @ 7:23 AM
7/21/2016 @ 8:07 AM
7/25/2016 @ 9:15 AM
7/27/2016 @ 8:31 AM
7/30/2016 @ 9:25 AM
8/4/2016 @ 5:36 PM
8/5/2016 @ 7:01 AM

Notes:

8/5/2016 @ 10:06 AM

7/21 attempt I observed a vehicle in the driveway, FL 475-HLY with no driver information. 7/25 attempt I observed a UPS package at the door addressed to Ms. Holsinger. 7/27 attempt package retrieved. Maybe avoiding service.

(By)

Dennis O'Rourke 7505

PALM BEACH COUNTY SHERIFF'S OFFICE ORIGINAL RETURN

Court: COMMON PLEAS
Case No.: 2016CP4003728
County: RICHLAND

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STEPHEN BRETZINGER

7686 CORKWOOD AVENUE
BOYNTON BEACH, FL 33437

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HARVEY M. WATSON, III, ESQ.
P.O. BOX 6338
WEST COLUMBIA, SC 29171

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NEAL TRUSLOW

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STEPHEN BRETZINGER, LINDSEY
HOLSINGER, ETC.

Received this Writ on July 18, 2016 at 10:21 AM and was unexecuted on August 5, 2016, in Palm Beach County, Florida, a true copy of this Writ, endorsed thereon by me, Dennis O'Rourke.

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Notes:

8/5/2016 @ 10:06 AM

7/21 attempt I observed a vehicle in the driveway, FL 475-HLY, with no driver information. 7/25 attempt I observed a UPS package at the door addressed to Ms. Holsinger. 7/27 attempt package retrieved. Maybe avoiding service.

By: 
Dennis O'Rourke 7505



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Save up to 18% on UPS shipping for your business.
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Tracking Number

[Log In](#) for additional tracking details.

[Other Tracking Options](#)

Tracking Detail

Share

Print

Email

1ZF6697AA490539212

Updated: 08/31/2016 10:59 A.M. Eastern Time

 Alternate Tracking Number : [1ZF6697AA790539216](#)

Returned

Returning to Sender

Scheduled Delivery:

Scheduled delivery information is not available at this time. Please check back later.

Last Location:

Riviera Beach, FL, United States, Monday, 08/29/2016

Special Instructions:**Adult Signature Required**

What time will your package
be delivered to your home?

Get FREE estimated

Delivery Windows on most

UPS packages.

Continue
[I am already a UPS My Choice[®] Member](#)

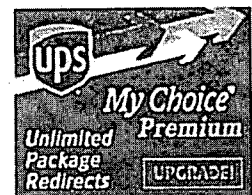
Need more
information?

Shipping Information**To:**

WEST COLUMBIA, SC, US

Service**UPS Next Day****Air Saver[®]****Shipment Progress**

Location	Date	Local Time	Activity
Riviera Beach, FL, United States	08/29/2016	10:07 A.M.	The receiver was not available at the time of the final delivery attempt. / The package will be returned to the sender. Alternate Tracking Number 1ZF6697AA790539216
Riviera Beach, FL, United States	08/22/2016	7:09 P.M.	The receiver was not available at the time of the final delivery attempt. / We've contacted the receiver to request additional information.
	08/22/2016	11:46 A.M.	The receiver was not available at the time of the final delivery attempt.
Riviera Beach, FL, United States	08/19/2016	12:25 P.M.	The receiver was not available at the time of the second delivery attempt. A final attempt will be made.
	08/19/2016	1:33 A.M.	Out For Delivery
Riviera Beach, FL, United States	08/18/2016	1:06 P.M.	The receiver was not available at the time of the first delivery attempt. A second attempt will be made.
	08/18/2016	7:51 A.M.	Out For Delivery
	08/18/2016	7:16 A.M.	Arrival Scan
West Palm Beach, FL, United States	08/18/2016	6:50 A.M.	Departure Scan
	08/18/2016	6:16 A.M.	Arrival Scan
Louisville, KY, United States	08/18/2016	4:13 A.M.	Departure Scan
Louisville, KY, United States	08/17/2016	11:12 P.M.	Arrival Scan



8/31/2016

UPS: Tracking Information

West Columbia, SC, United States	08/17/2016 10:09 P.M.	Departure Scan
	08/17/2016 9:05 P.M.	Origin Scan
	08/17/2016 5:55 P.M.	Pickup Scan
United States	08/17/2016 5:06 P.M.	Order Processed: Ready for UPS

Additional Information

Shipment Category:	Package
Shipped/Billed On:	08/17/2016
Weight:	1.50 lbs

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[E-mail UPS](#)

[Live Chat](#)

[Call Customer Service](#)

Support

[Get Started](#)

[Register](#)

[Open a Shipping Account](#)

[Change Your Delivery](#)

Solutions for

[Healthcare](#)

[Small Business](#)

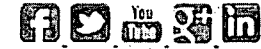
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Mara Ballard

From: UPS Quantum View <pkginfo@ups.com>
Sent: August 22, 2016 7:22 PM
To: Mara Ballard
Subject: UPS Exception Notification, Tracking Number 1ZF6697AA490539212



The status of your package has changed.

Exception Reason:

The receiver was not available at the time of the final delivery attempt.



[Change Delivery](#)

[Manage Settings](#)

[View Delivery Planner](#)

At the request of DESA BALLARD PA, this notice alerts you that the status of the shipment listed below has changed.

Signature Required:

Adult must be at least 21 years of age

Shipment Detail

Tracking Number:	<u>1ZF6697AA490539212</u>
	Stephen Bretzinger 7686 Corkwood Ave BOYNTON BEACH, FL 334377560 US
Ship To:	
UPS Service:	UPS NEXT DAY AIR SAVER
Package Weight:	1.5 LBS
Reference Number 1:	151031-002



United States

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Tracking Number

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Tracking Detail

[Print](#)[Share](#)[Print](#)[Help](#)[A A A](#)

1ZF6697AA492807820

Updated: 08/31/2016 10:56 A.M. Eastern Time

Alternate Tracking Number : [1ZF6697AA792807824](#)

Returned

Returning to Sender

Scheduled Delivery:

Scheduled delivery information is not available at this time. Please check back later.

[Notify me with Updates »](#)[Change Delivery »](#)

Last Location:

Riviera Beach, FL, United States, Monday, 08/29/2016

Special Instructions:

Adult Signature Required

What time will your package
be delivered to your home?

Get FREE estimated

Delivery Windows on most

UPS packages.

[I am already a UPS My Choice® Member](#)**Continue**

Need more
information?

[Get Help](#)

Shipping Information

To:
WEST COLUMBIA, SC, US

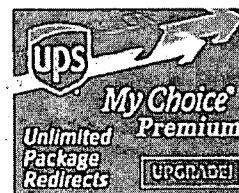
Service

**UPS Next Day
Air Saver®**

Shipment Progress

[Print](#)

Location	Date	Local Time	Activity
Riviera Beach, FL, United States	08/29/2016	10:06 A.M.	The receiver was not available at the time of the final delivery attempt. / The package will be returned to the sender. Alternate Tracking Number 1ZF6697AA792807824
Riviera Beach, FL, United States	08/22/2016	7:09 P.M.	The receiver was not available at the time of the final delivery attempt. / We've contacted the receiver to request additional information.
	08/22/2016	11:46 A.M.	The receiver was not available at the time of the final delivery attempt.
Riviera Beach, FL, United States	08/19/2016	12:25 P.M.	The receiver was not available at the time of the second delivery attempt. A final attempt will be made.
	08/19/2016	1:33 A.M.	Out For Delivery
Riviera Beach, FL, United States	08/18/2016	1:06 P.M.	The receiver was not available at the time of the first delivery attempt. A second attempt will be made.
	08/18/2016	7:29 A.M.	Out For Delivery
	08/18/2016	7:16 A.M.	Arrival Scan
West Palm Beach, FL, United States	08/18/2016	6:50 A.M.	Departure Scan
	08/18/2016	6:16 A.M.	Arrival Scan
Louisville, KY, United States	08/18/2016	4:13 A.M.	Departure Scan
Louisville, KY, United States	08/17/2016	11:12 P.M.	Arrival Scan



8/31/2016

UPS: Tracking Information

West Columbia, SC, United States	08/17/2016 10:09 P.M.	Departure Scan
	08/17/2016 8:59 P.M.	Origin Scan
	08/17/2016 5:55 P.M.	Pickup Scan
United States	08/17/2016 5:09 P.M.	Order Processed: Ready for UPS

Additional Information

Shipment Category:	Package
Shipped/Billed On:	08/17/2016
Weight:	1.50 lbs

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Mara Ballard

From: UPS Quantum View <pkginfo@ups.com>
Sent: August 22, 2016 7:22 PM
To: Mara Ballard
Subject: UPS Exception Notification, Tracking Number 1ZF6697AA492807820



The status of your package has changed.

Exception Reason:

The receiver was not available at the time of the final delivery attempt.



At the request of DESA BALLARD PA, this notice alerts you that the status of the shipment listed below has changed.

Signature Required:

Adult must be at least 21 years of age

Shipment Detail

Tracking Number:	<u>1ZF6697AA492807820</u>
Ship To:	Lindsey Holsinger 7686 Corkwood Ave BOYNTON BEACH, FL 334377560 US
UPS Service:	UPS NEXT DAY AIR SAVER
Package Weight:	1.5 LBS
Reference Number 1:	151031-002

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-40-03728

Neal Truslow,)
Plaintiff,)

vs.)

Stephen Bretzinger,)
Lindsey Holsinger, and)
Rikard & Protopapas, LLC)
Defendant.)

CERTIFICATE
SERVICE

RICHLAND COUNTY
FILED
2016 SEP 12 PM 1:12
JEANETTE W. MCBRIDE
Clerk of Court
C.P. & G.S.

The undersigned certifies that she, on September 8, 2016 caused to be served a copy of the Motion for Service by Publication, Affidavit of Mara Ballard and proposed Order for Service by Publication by depositing all in the United States Mail, with sufficient first class postage affixed, addressed as follows:

Peter D. Protopapas, Esquire
Rikard & Protopapas, LLC
1329 Blanding Street
Columbia SC 29201

Lindsey Holsinger
7686 Corkwood Avenue
Boynton Beach, FL 33437

Stephen Bretzinger
7686 Corkwood Avenue
Boynton Beach, FL 33437


Mara T. Ballard, CPE, CMA

September 8, 2016

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO. 2016-CP-40-03728

Neal Truslow

Plaintiff,

vs.

Stephen Bretzinger,
Lindsey Holsinger, and
Rikard & Protopapas, LLC

Defendant.

**ORDER
FOR SERVICE
BY PUBLICATION**

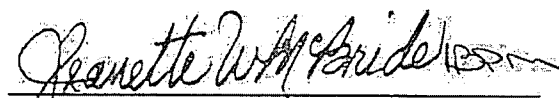
RICHLAND COUNTY
FILED
2016 SEP 12 PM 1:12
JEANETTE W. MCBRIDE
C.C.P. & G.S.

This matter comes before me upon the Motion of the attorney for Plaintiff, Harvey M. Watson III, for an Order for Service by Publication pursuant to S.C. Code § 15-9-710.

It appears that there is just cause for granting this Motion, therefore,

IT IS HEREBY ORDERED that service upon the Defendants Stephen Bretzinger and Lindsey Holsinger be made by publication in the SunSentinel newspaper located in Palm Beach County, FL, once a week for three weeks.

IT IS SO ORDERED.



Jeanette W. McBride
Clerk of Court

Dated: 9-12-16
Richland County, South Carolina

SUN-SENTINEL
Published Daily
Fort Lauderdale, Broward County, Florida
Boca Raton, Palm Beach County, Florida
Miami, Miami-Dade County, Florida

STATE OF FLORIDA

COUNTY OF: BROWARD/PALM BEACH/MIAMI-DADE

Before the undersigned authority personally appeared.

MARK KUZNITZ, who on oath says that he or she is a duly authorized representative of the SUN-SENTINEL, a DAILY newspaper published in BROWARD/PALM BEACH/MIAMI-DADE County, Florida; that the attached copy of advertisement, being a Legal Notice in:

The matter of 11710-Notice of Administration

Ballard & Watson, Attorneys at Law
Post Office Box 6338
West Columbia, SC 29171

Was published in said newspaper in the issues of: Sep 22, 2016; Sep 29, 2016; Oct 06, 2016;

4471901

Affiant further says that the said SUN-SENTINEL is a newspaper published in said BROWARD/PALM BEACH/MIAMI-DADE County, Florida, and that the said newspaper has heretofore been continuously published in said BROWARD/PALM BEACH/MIAMI-DADE County, Florida, each day and has been entered as second class matter at the post office in BROWARD County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised, any person, firm or corporation, any discount, rebate, commission or refund, for the purpose of securing this advertisement for publication in the said newspaper.

Signature of Affiant

Sworn to and subscribed before me this: October 06, 2016.

Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped

Personally Known (X) or Produced Identification ()

I, **Mara Ballard**, an employee of the Ballard & Watson Attorneys at Law certify that I have this date served a copy of **Affiant of Publication** counsel of record and Pro Se parties by depositing a copy properly addressed, with sufficient First Class postage affixed, to each, in the United States Mail.

Date: 10-12-16 Signed: *Mara Ballard*

RICHLAND COUNTY
FILED
2016 OCT 14 PM 12:20
JEANETTE W. McBRIDE
C.C.P. & G.S.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2016-CP-40-03728
SUMMONS
(BREACH OF CONTRACT CLAIM - NO
JURY TRIAL REQUESTED)

Neal Trustow,
Plaintiff,
v.
Stephen Bretzinger,
Lindsey Holsinger, and
Rikard & Protopoulos, LLC,
Defendants.

TO: THE ABOVE-NAMED DEFENDANTS

YOU MAY PLEASE TAKE NOTICE that you are hereby summoned and required to answer the Complaint in this action, said Complaint being filed with the Clerk of Court in Richland County on June 16, 2016, and herewith served upon you, and you are to serve a copy of your Answer on the attorney for the Plaintiff listed below at his office at P.O. Box 6338, West Columbia, S.C. 29171, within thirty (30) days after service hereof, excluding the date of such service. IF YOU FAIL TO ANSWER THE COMPLAINT WITHIN THE TIME AFORESAID, PLAINTIFF WILL APPLY TO THE COURT FOR A JUDGMENT BY DEFAULT FOR THE RELIEF DEMANDED IN THE COMPLAINT AND ANY OTHER RELIEF DEEMED APPROPRIATE.

BALLARD & WATSON
By: Harvey M. Watson II
Attorney at Law
P.O. Box 6338
West Columbia, SC 29171

Dated: 09/20/2016
09/26/2016 10/03/2016 10/10/2016

From: [Desa Ballard](#)
To: [Alex MacClenahan](#)
Cc: [Mara T. Ballard, CFE, CMA \(mara@desaballard.com\)](#); [Elizabeth "Beth" Cogan \(beth@desaballard.com\)](#)
Bcc: [Neal Truslow; pete@nosajeterlaw.com](#)
Subject: RE: Bretzinger 2016-CP-40-3728
Date: Monday, October 24, 2016 10:51:00 AM
Attachments: [2016.6.16 \(filed\) Summons and Complaint.pdf](#)
[2016.09.12 Order for Service by Publication.pdf](#)
[2016.10.14 Filed Affidavit of Publication.pdf](#)

Alex:

Thanks for contacting me. Attached are the pleadings filed to date. This is a fee collection. Your clients did not want to pay the fees after my client settled their case. Peter is holding the money, and he has filed an answer just saying "yeah, I have the money, tell me what to do with it." The clients have already received their money.

Look forward to hearing from you.

db

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

From: Alex MacClenahan [<mailto:alex@macclenahanlaw.com>]
Sent: Monday, October 24, 2016 10:02 AM
To: Desa Ballard <Desab@desaballard.com>
Subject: Re: Bretzinger 2016-CP-40-3728

Thanks

> On Oct 24, 2016, at 10:01 AM, Desa Ballard <Desab@desaballard.com> wrote:

>

> Sure. I am traveling at the moment. Will be at your desk in a few hours.

>

>

>

> Sent via the Samsung Galaxy Note5, an AT&T 4G LTE smartphone

>

>

> ----- Original message -----

> From: Alex MacClenahan <alex@macclenahanlaw.com>

> Date: 10/24/16 9:42 AM (GMT-05:00)

> To: Desa Ballard <Desab@desaballard.com>

> Subject: Bretzinger 2016-CP-40-3728

>

> Desa,

>

> I have been retained by Stephen and Lindsay Bretzinger. I am trying to get up to speed on what is going on with this case. I understand that you are in the process of obtaining service via publication. Is this correct? Also, can you provide me with a pdf copy of the pleadings you have filed?

>

> Please let me know if you have any questions.

>

> Thanks

>

> Alex MacClenahan

>

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>

> Alex MacClenahan

> The MacClenahan Law Firm, LLC

> 223 W. Stone Avenue

> Greenville, SC 29609

> Phone: 864-382-3340

> Fax: 864-751-2963

> alex@macclenahanlaw.com

>

> This message (including attachments) may be privileged and confidential. If you are not the intended recipient, please delete it without further distribution and reply to the sender that you have received the message in error.

>

> Circular 230 Disclosure: To ensure compliance with Treasury Department regulations, we inform you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of avoiding U.S. tax-related penalties or promoting, marketing, or recommending to another party any tax-related matters addressed herein.

Alex MacClenahan

The MacClenahan Law Firm, LLC

223 W. Stone Avenue

Greenville, SC 29609

Phone: 864-382-3340

Fax: 864-751-2963

alex@macclenahanlaw.com

This message (including attachments) may be privileged and confidential. If you are not the intended recipient, please delete it without further distribution and reply to the sender that you have received the message in error.

Circular 230 Disclosure: To ensure compliance with Treasury Department regulations, we inform you that any U.S. tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of avoiding U.S. tax-related penalties or promoting, marketing, or recommending to another party any tax-related matters addressed herein.

From: [Mara Ballard](#)
To: pdp@rplegalgroup.com; alex@macclenahanlaw.com
Cc: [Desa Ballard](#); [Harvey Watson](#)
Subject: Truslow, Neal (Bretzinger);
Date: Monday, November 14, 2016 3:45:22 PM
Attachments: [2016.11.14 Filed Affidavit of Default and Motion for Judgment.pdf](#)
[2016.11.14 COC with Default judgment pleadings.pdf](#)

Gentlemen,

Please see the attached documents which were taken to the Clerk of Court today for filing. The unfiled versions were placed in the mail to you for service earlier today.

If you have any questions, please let us know.

With Kindest Regards,

Mara T. Ballard, CFE, CMA
Forensic Accountant
Ballard & Watson Attorneys at Law
226 State Street (29169)
Post Office Box 6338
West Columbia, South Carolina 29171
803.796.9299
803.796.1066 Facsimile
www.desaballard.com



From: Desa Ballard
To: Alex MacClenahan
Cc: Peter Protopapas; Elizabeth "Beth" Cogan (beth@desaballard.com)
Subject: RE: Truslow, Neal (Bretzinger);
Date: Tuesday, November 15, 2016 12:06:00 PM

No I can't consent to setting aside the default. Nothing personal I assure you, I'm sure you understand, but your clients have been impossible to deal with. They ducked service by several methods and we had to resort to service by publication. They didn't answer in time. I assumed you had not taken the case once you saw your clients were trying to get out of paying their lawyers (assumed you would not want the same to happen to you).

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

From: Alex MacClenahan [<mailto:alex@macclenahanlaw.com>]
Sent: Tuesday, November 15, 2016 11:23 AM
To: Desa Ballard <Desab@desaballard.com>
Cc: Peter Protopapas <pdp@rplegalgroup.com>
Subject: Re: Truslow, Neal (Bretzinger);

Desa,

I was in the process of drafting the Answer in this matter when I received your a. The answer is being sent to the Court for filing and I have provided a copy to via PDG. Will you agree to set aside the default or do I need to file a motion.

Thanks

Alex

STATE OF SOUTH CAROLINA	)	FIFTH JUDICIAL CIRCUIT
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	
Neal Truslow,	)	Case No.: 2016-CP-40-03728
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANTS STEPHEN
	)	BRETZINGER and LINDSEY
Stephen Bretzinger, Lindsey Holsinger,	)	HOLSINGER'S RESPONSES to
and Rikard & Protopapas, LLC.	)	PLAINTIFF'S REQUESTS TO
	)	ADMIT
Defendants.	)	

Pursuant to Rule 36 of the SCRCP, Defendants respond to Plaintiff's Requests to Admit as follows:

1. The attached email dated August 22, 2016 accurately represent instructions given by these defendants, or either of them, to Peter Protopapas sometime prior to August 22, 2016.

RESPONSE: Denied. The attached e-mail is a communication between Peter Protopapas and Plaintiff's counsel, it contains no instructions from Defendants. Defendants admit that since they did not retain Mr. Protopapas to represent them in this action, he was not allowed to accept service on their behalf. Unless expressly admitted herein, Defendants deny the remaining allegations of this Request to Admit.

2. These defendants were aware no later than August 22, 2016 that the lawsuit had been filed and that service upon them was being attempted.

RESPONSE: Defendants cannot recall a specific date in which they became aware that a lawsuit had been filed and that service was being attempted.

Defendants admit that they were aware no later than October 24, 2016 that a lawsuit had been filed and service was being attempted. Unless expressly admitted herein, Defendants deny the remaining allegations of this Request to Admit

3. These defendants have avoided service in this matter.

RESPONSE: Denied.

4. These defendants were aware that service by publication had been authorized by this Court prior to October 8, 2016.

RESPONSE: Defendants cannot recall a specific date in which they became aware of the Court's Order for Publication. Defendants admit that they were aware no later than October 24, 2016 that service by publication had been authorized by this Court. Unless expressly admitted herein, Defendants deny the remaining allegations of this Request to Admit.

5. These defendants had actual notice of this litigation no later than November 1, 2016.

RESPONSE: The Defendants admit that they had notice of the litigation no later than November 1, 2016.

6. These defendants had received a copy of the complaint in this matter no later than November 1, 2016.

RESPONSE: Defendants admit that they received a copy of the complaint no later than November 1, 2016.

7. These defendants intend to delay these proceedings.

RESPONSE: Denied.

8. These defendants lack a defense to this action.

RESPONSE: Denied.

9. These defendants have received settlement funds recovered by Plaintiff on their behalf.

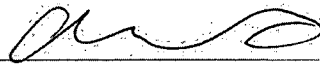
RESPONSE: Defendants admit they received a portion of settlement funds in the action filed in the U.S. District Court for the District of South Carolina, captioned *Bretzinger and Holsinger v. Crestwood Homes, LLC et al.*, Case No.: 0:13-CV-2771-JMC. Unless expressly admitted herein, Defendants deny the remaining allegations of this Request to Admit.

10. These defendants are attempting to avoid paying an attorney fee for work that performed for them in connection with the collection of a judgment.

RESPONSE: Denied.

This the 1st day of February, 2017.

THE MACCLENAHAN LAW FIRM, LLC



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**Supplemental Plaintiff's Memorandum in Opposition to Motion to Set Aside
Default Judgment served on September 8, 2017**

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Neal Truslow

Plaintiff,

vs.

Stephen Bretzinger,

Lindsey Holsinger, and

Rikard & Protopapas, LLC

Defendants

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-40-3728

SUPPLEMENTAL
PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO MOTION TO SET ASIDE
DEFAULT JUDGMENT

On July 11, 2017, this Court heard two (2) motions in the instant matter: (1) Defendant Bretzinger and Holsinger's Motion to set Aside Default, dated December 22, 2016, and (2) Plaintiff's Motion to Compel [responses to request to produce] dated March 31, 2017.

Plaintiff's request to produce to defendants Bretzinger and Holsinger sought information relevant to their motion to set aside default judgment, in that it sought to determine when Bretzinger and Holsinger first received a copy of the complaint in this action. As detailed by the record in this matter, Defendants Bretzinger and Holsinger repeatedly evaded service of process in this matter for several months, after refusing to allow their prior counsel to accept service on their behalf.

In discovery responses, Defendants Bretzinger and Holsinger deliberately made misleading statements as to when they first received a copy of the complaint in this action.

Request to Produce No. 4¹: Any and all copies of the complaint in this action received by you from any source including the envelope in which the copy was received or email to which the complaint was attached.

¹ The Requests for Production were served by Plaintiff's counsel on January 5, 2016. They are Exhibit E to Plaintiff's Motion to Compel.

Response²: Defendants object to this request to the extent that it seeks information protected by the attorney-client privilege and/or the work product doctrine. Subject to, and without waiving the foregoing objections, Defendants respond as follows: Defendants, via counsel, received a copy of the complaint on October 24, 2016.

After Plaintiff's counsel questioned the sufficiency of the Response to No. 4, Defendants served a supplemental response:

Response³: [same objection]. "Defendants, via counsel, received a copy of the complaint on October 24, 2016. Defendants did not receive any other non-protected/non-privileged documents that are responsive to this request.

Plaintiff filed a motion to compel, asserting that the material sought was not protected by privilege. This court agreed, and by order filed August 30, 2017, this Court granted Plaintiff's motion. These Defendants subsequently provided a second supplemental response in which they produced emails showing definitively that they received copies of the complaint via email on June 20, 2017 and again on September 11, 2017.

In his original memorandum in opposition to these Defendants' Motion to Set Aside Default Judgment, Plaintiff asserted that these Defendants had notice that service had been completed upon them no later than October 6, 2016, because of Plaintiff's counsel's email to Defendant's counsel on October 24, 2017 enclosing copies of the summons, complaint and order for service by and the filed Affidavit of Service by Publication, which was attached to the email of Plaintiff's counsel. (Exhibit I to Memo in Opposition to Motion to Set Aside Default Judgment).

Now that Defendants have been required to tell the truth, we know without question that these Defendants had a copy of the complaint in this action no later than June 11, 2016. However,

² Attached as Exhibit F to Plaintiff's Motion to Compel.

³ Attached as Exhibit G to Plaintiff's Motion to Compel.

they ignored the matter, and took no action to file responsive pleadings or request an extension of time for more than five months after they originally received a copy of the complaint in this action.

Moreover, it may well be that the email from Defendant's counsel to Plaintiff's counsel on October 24, 2016 (requesting a copy of pleadings his clients already had in their possession) was an attempt to start the clock running again, since Defendants had taken no action to appear in this action despite knowledge of it, and despite their knowledge that the South Carolina court had recognized Defendant's repeated efforts to evade service of process and had ordered service by publication.

By seeking to set aside the default judgment entered against them on November 29, 2016, Defendants ask this court to provide them with equitable relief, based on a purported showing of "good cause." Plaintiff would assert that, not only have Defendants not shown good cause, it is now apparent that Defendants have been thumbing their noses at this Court from the beginning of this action.

It is "one of the oldest principles of equity – "He who seeks equity should do equity." *Anderson v. Purvis*, 211 S.C. 255, 44 S.E.2d 611, 613 (1947). These Defendants seek equity in the form of forgiveness for a mistake. However we know now it was not a mistake, it was a calculated effort to complicate and delay these proceedings.

The motion to set aside default judgment should be denied.

Desa Ballard
Harvey M. Watson III

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COUNSEL FOR PLAINTIFF

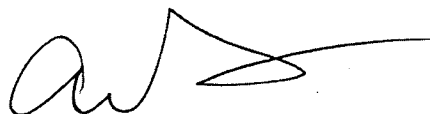
September 8, 2017

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully submitted,

August 8, 2018



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Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Respectfully submitted,

August 8, 2018



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