THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
The Honorable Bentley Price, Circuit Court Judge

Civil Action No. 2017-CP-10-5824
Appellate Case No.: 2020-000534

John Mayers — Appellant.

v.

Konan Henthorn — Respondent.

INITIAL BRIEF OF RESPONDENT

Michael T. Coulter (SC Bar #15177)
1164A Woodruff Road (29607)
PO Box 6728
Greenville, SC 29606
T: 864.232.4400

Attorney for Respondent Konan Henthorn

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Rules

I. STATEMENT OF THE ISSUES ON APPEAL

1) DID THE CIRCUIT COURT CORRECTLY DENY APPELLANT'S PRE-TRIAL MOTION FOR SUMMARY JUDGEMENT?

2) DID THE CIRCUIT COURT PROPERLY ALLOW FOR EVIDENCE AND TESTIMONY REGARDING UNOPEN BEER CANS AT THE SCENE OF THE ACCIDENT AND INFORMATION ABOUT BEER IN MEDICAL RECORDS WHEN BOTH PEICES OF EVIDENCE WERE RELEVANT REGARDING COMPARATIVE FAULT?

3) DID THE CIRCUIT COURT CORRECTLY DENY APPELLANT'S MOTION FOR NEW TRIAL?

II. STATEMENT OF THE CASE

This matter arises out of a motor vehicle accident that occurred on or about May 17, 2016 in which a bicycle being operated by Appellant, John Chad Mayers, collided with Respondent, Konan Henthorn's, automobile. On November 9, 2017, Mr. Mayers filed a lawsuit against Mr. Henthorn, seeking recovery for the bodily injuries he alleges he sustained as a result of the accident.

On December 11, 2017, counsel for Mr. Henthorn timely filed an Answer to the Summons and Complaint and specifically denied liability. [Answer]. On March 13, 2018, Mr. Henthorn was personally served with the Summons and Complaint and, despite having an attorney on record, was also served with Interrogatories and Requests for Production. [Affidavit of Konan Henthorn]. Mr. Henthorn was not personally served with Requests for Admissions ("RFAs"). [Affidavit of Konan Henthorn]. On November 30, 2018, counsel for Mr. Henthorn notified Mr. Mayers' counsel that they had not received any discovery requests, including the RFAs. [Trial Transcript 12: 1-3]. However, it was not until approximately two months later, on January 30, 2019, that counsel for Mr. Henthorn was served with RFAs seeking admissions of liability for the accident. [Plt.'s RFA]. On February 1, 2019, Mr. Henthorn, by way of counsel, timely responded to the RFAs. [Def. Resp. to Plt.'s RFA]. Consistent with his Answer, Mr. Henthorn denied liability for the accident in his responses to the RFA's. [Def. Resp. to Plt.'s RFA].

The matter was set for a jury trial before the Honorable Roger M. Young, Sr. on April 17, 2019. Judge Young heard pre-trial motions, including Mr. Mayers' motion alleging that the RFA's should be deemed admitted because they were allegedly personally served on Mr. Henthorn, prior to being served on Mr. Henthorn's counsel. Judge Young denied the motion, ruling that the RFAs were not deemed admitted as Rule 5(b)(1), SCRCP requires service be made on a represented party's attorney rather than the party himself and that the RFA's were timely answered once

properly served on Mr. Henthorn's counsel. Judge Young continued the trial allow for discovery on the contested issue of liability. [Transcript of April 17, 2019, Jury Trial, p. 37-38, lines 22-12].

On February 19, 2020, this matter came to a jury trial before the Honorable Bentley Price. On February 21, 2020, the jury found for Mr. Henthorn. [2.21.2020 Order]. On February 28, 2020, Mr. Mayers' counsel filed and served his Motion for Judgment Not Withstanding the Verdict ("JNOV") and New Trial Absolute upon opposing counsel and the Circuit Court. [Post-trial Motions]. On March 4, 2020, an Order was entered and served upon counsel of record denying Mr. Mayers' Motion for JNOV and New Trial Absolute. [3.4.2020 Order].

III. STANDARD OF REVIEW

"The standard of review for an appeal of an action at law tried by a jury is restricted to corrections of errors of law. A factual finding of the jury will not be disturbed unless there is no evidence which reasonably supports the findings of the jury." Felder v. K-Mart Corp., 297 S.C. 446, 448, 377 S.E.2d 332, 333 (1989).

The admission of evidence is a matter left to the discretion of the trial judge. Carlyle v. Tuomey Hosp., 305 S.C. 187, 407 S.E.2d 630 (1991). Therefore, on appeal, an appellate court will not disturb a trial court's evidentiary rulings absent a clear abuse of discretion. R&G Constr., Inc. v. Lowcountry Reg'l Transp. Auth, 343 S.C. 424, 439, 540 S.E.2d 113, 121 (Ct. App. 2000); American Federal Bank v. No. 1 Main Joint Venture, 321 S.C. 169, 467 S.E.2d 439 (1996); "For this Court to reverse a case based on the admission of evidence, both error and prejudice must be shown." Seabrook Island Prop. Owners' Ass'n., 365 S.C. 234 at 242, 616 S.E.2d 431 at 435 (Ct. App. 2005).

When reviewing the trial judge's decision on directed verdict motions or judgment notwithstanding the verdict, an appellate court must apply the same standard as applies to the lower

court by viewing the evidence and all inferences that reasonably can be drawn therefrom in the light most favorable to the nonmoving party. Weir v. Citicorp Nat'l Servs., Inc., 312 S.C. 511, 435 S.E.2d 864 (1993); Welch v. Epstein, 342 S.C. 279, 299, 536 S.E.2d 408, 418 (Ct. App. 2000). The appellant court may only reverse the denial of a motion for directed verdict or JNOV if no evidence supports the trial court's ruling. Swinton Creek Nursery v. Edisto Farm Credit, 334 S.C. 469, 514 S.E.2d 126 (1999). When considering directed verdict and JNOV motions, neither the trial court nor the appellate court has authority to decide credibility issues or to resolve conflicts in the testimony or evidence. Welch v. Epstein, 342 S.C. 279, 300, 536 S.E.2d 408, 419 (Ct. App. 2000); Erickson v. Jones Street Publishers, LLC, 368 S.C. 444, 463, 629 S.E.2d 653, 663 (2006). A motion for JNOV may be granted only if no reasonable jury could have reached the challenged verdict. Crossley v. State Farm Mut. Auto. Ins. Co., 307 S.C. 354, 415 S.E.2d 393 (1992). The jury's verdict will not be overturned if any evidence exists that sustains the factual findings implicit in its decision. Smalls v. South Carolina Dep't of Educ., 339 S.C. 208, 528 S.E.2d 682 (Ct. App. 2000); Hunter v. Staples, 335 S.C. 93, 515 S.E.2d 261 (Ct. App. 1999).

A respondent may argue any additional reasons why an appellant court should affirm the appealed ruling, "regardless of whether those reasons have been presented to or ruled on by the lower court." I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 419, 526 S.E.2d 716, 723 (2000). A reviewing court may, in its discretion, review the additional reasons presented by the respondent and "if convinced it is proper and fair to do so, rely on them or any other reason appearing in the record to affirm the lower court's judgment." Id. at 420, 526 S.E.2d at 723. See also Rule 220(c) SCACR.

IV. ARGUMENT

A. The Lower Court Properly Denied Appellant's Pre-Trial Motion for Summary Judgment Because Respondent Denied Liability Both In His Answer and Subsequently In His Response to the Requests for Admissions, Which Were Properly Served Upon Counsel of Record On January 30, 2019.

Despite a previous holding by the lower court during the first pre-trial motions hearing on April 17, 2019, as well as the subsequent ruling made by the lower court on February 20, 2020, counsel for Mr. Mayers continually refuses to address and recognize that Rule 5(b)(1), SCRCP, is the controlling rule regarding the service of the RFAs in question, not Rule 36, SCRCP. It is uncontested that counsel had filed an answer and appeared on behalf of Mr. Henthorn approximately three months before service of the summons and complaint had been perfected upon Mr. Henthorn. [Transcript of April 17, 2019, Jury Trial Motion Hearings, p. 36, lines 20-24]. Therefore, pursuant to Rule 5(b)(1), SCRCP, counsel of record for Mr. Henthorn should have been served with any discovery requests, including any RFAs.

The procedural history of this case is as follows: On December 11, 2017, counsel for Mr. Henthorn appeared on record and timely filed an Answer to the Summons and Complaint, whereby liability was denied. [Answer]. Approximately three months later, on March 13, 2018, Mr. Henthorn was personally served with the Summons and Complaint and despite having an attorney on record, was also served Interrogatories and Requests for Production. [Affidavit of Konan Henthorn]. However, and although it would have been improper pursuant to Rule 5(b)(1), SCRCP, Mr. Henthorn was not personally served with RFAs. [Affidavit of Konan Henthorn]. Approximately eight months later, on November 30, 2018, counsel for Mr. Henthorn notified Mr. Mayers' counsel that they had not received any discovery requests, including any RFAs. [Trial Transcript 12: 1-3]. At that time, counsel for Mr. Mayers served Interrogatories and Requests for Production upon counsel for Mr. Henthorn, but still did not serve any RFAs. The Interrogatories

and Requests for Production were responded to by December 5, 2018. On December 20, 2018, counsel for Mr. Mayers admitted that he never directly served counsel of record with the RFAs. [Plaintiff's Response to Defendant's Second Requests for Admission]. On January 30, 2019, counsel for Mr. Henthorn was finally served the RFAs on Mr. Henthorn's counsel. The next day on February 1, 2019, counsel for Mr. Henthorn timely responded to the RFAs and denied liability. The issue of liability in this matter was contested by Mr. Henthorn in his Answer and again in his Responses to Mr. Mayers' RFAs.

As first ruled upon and understood by the lower court on April 17, 2019 and reiterated by the lower court again on February 20, 2020, Rule 5(b)(1), SCRCP states in part, "Whenever under these rules service is required or permitted to be made upon a **party represented by an attorney the service shall be made upon the attorney** unless service upon the party himself is ordered by the court." (SCRCP Rule 5(b)(1)) (Emphasis added). In the present case, it is undisputed that no court ordered that Mr. Henthorn himself must be served with discovery requests sent on behalf of Mr. Mayers. [Transcript of April 17, 2019, Jury Trial Motion Hearings, p. 36, lines 20-24]. It is also uncontested that Mr. Henthorn was represented by an attorney at the time any discovery requests were served. [Transcript of April 17, 2019, Jury Trial Motion Hearings, p. 36, lines 20-24]. Therefore, pursuant to Rule 5(b)(1), SCRCP, any discovery requests sent to Mr. Henthorn, including the RFAs at issue, should have been served upon **counsel** for Mr. Henthorn, not personally served upon Mr. Henthorn himself. As stated before, Rule 5(b)(1), SCRCP, was the basis for the lower court's holding that any RFAs allegedly served directly upon Mr. Henthorn would not be deemed admitted. The lower court on April 17, 2019 stated:

> THE COURT: And there was never an attempt to hold the defendant in default for not answering that summons and complaint, so there was never a challenge to your first answer, so you were attorney of record. He was not attempted to be held in default. There was no effort to ever hold or ask for summary judgment based on the

> fact that the requests to admit were made – or were served and not answered, so that just buttresses the fact, in my mind, **that the controlling rule is 5(b)(1)** that says when Mr. Coulter and his firm filed an answer for the defendant December 17, anything that had to do with discovery requests and all the other things that were to be served under 5(a) had to be served on Mr. Coulter. Rule says shall be served upon the attorney, so **I'm not going to deem those requests to admit as admitted**.

[Transcript of April 17, 2019, Jury Trial Motion Hearings, p. 37-38, lines 22-12] (Emphasis added). Upon the lower court's holding that liability continued to be contested amongst the parties, counsel for Mr. Mayers consulted with his client and requested that the trial be continued so that he could conduct the necessary discovery regarding liability. [Transcript of April 17, 2019, Jury Trial Motion Hearings, p. 38-40, lines 13-5]. As such, the jury trial was continued and subsequently brought before the Honorable Judge Bentley Price approximately ten months later on February 19, 2020.

Despite liability having been denied in the Answer filed on December 2017 and denied again in Mr. Henthorn's Responses to Plaintiff's RFAs served in January 2019, and despite the continuation of the April 17, 2019 trial to allow for discovery on liability, counsel for Mr. Mayers chose not to conduct discovery on the issue of liability. Instead, Mr. Mayers waited until just before the rescheduled trial date and filed a second pre-trial motion asserting that liability should be deemed admitted. [Pre-Trial Motion for Summary Judgment, Trial Transcript, p. 16, lines 9-24].

The lower court once again heard arguments from counsel for Mr. Mayers whereby he continued to vehemently state that Mr. Henthorn never responded to the RFAs pursuant to Rule 36, SCRCP, nor had counsel of record filed a Motion to Extend Time to respond to the RFAs. However, the lower court agreed with the previous finding that, pursuant to Rule 5 (b)(1), SCRCP, the RFAs had been timely answered when served upon counsel of record on January 30, 2019, and as such, there was no need to file a Motion to Extend Time [Trial Transcript, p. 25, lines 8-14]. The lower court further found that counsel for Mr. Mayers was attempting to hide behind the rules

and his refusal to properly serve counsel of record the RFAs, was a "willful" act. [Trial Transcript, p.27-28, lines 17-9].

The Supreme Court has held that a trial court's ruling on discovery matters will not be overturned on appeal "absent a clear abuse of discretion". Crestwood Golf Club, Inc. v. Potter, 328 S.C. 201, 493 S.E.2d 826 (1997). Here, there is no evidence that the lower court abused its discretion in its finding because: 1) the RFAs were not properly served upon counsel until January 30, 2019; and 2) Once the RFAs were properly served upon counsel of record for Mr. Henthorn, they were timely responded to, and liability was denied. Therefore, the lower court properly denied Mr. Mayers' Pre-Trial Motion for Summary Judgment as it had been made very clear in the filed Answer, the Responses to Mr. Mayers' RFAs, and by the previous holding by the lower court, that liability was contested issue in the matter. As such, the lower court's decision to deny summary judgment should be affirmed.

B. The Lower Court Did Not Abuse its Discretion and It Properly Allowed into Evidence the Testimony Regarding Beer Cans At the Scene of the Accident and References to the Beer Cans Contained in Medical Records Because the Evidence Was Relevant and Admissible.

Liability has been denied throughout this case as first evidenced by the filing of Mr. Henthorn's Answer on December 11, 2017. [Answer]. Moreover, and despite Appellant's continuous effort, the lower court, on two separate occasions, ruled that liability had not been deemed admitted. As such, any evidence or testimony presented at the trial of this case, which tended to show that Mr. Mayers had comparative fault for the accident, was relevant pursuant to Rules 401 and 402, South Carolina Rules of Evidence ("SCRE"). The admissibility of evidence lies within the sound discretion of the trial court whose decision will not be overturned on appeal absent a clear abuse of that discretion. Gamble v. Int'l Paper Realty Corp., 323 S.C. 367,

474 S.E.2d 438 (1996); Washington v. Whitaker, 317 S.C. 108, 451 S.E.2d 894 (1994); Carlyle v. Tuomey Hosp., 305 S.C. 187, 407 S.E.2d 630 (1991).

1. Photographs of Beer Cans at the Accident Scene

Counsel for Mr. Mayers argues that the photographs that depicted the beer cans found at the scene of the accident were not admissible in this case because there is no statutory duty that would require Mr. Mayers to not drink before operating a bicycle. [App. Brief p.12]. However, counsel fails to mention, and seemingly overlooks, Section 56-5-3420, which states that a person riding a bicycle on a roadway is subject to the same duties as a person driving a motor vehicle. (S.C. Code Section 56-5-3420). As such, a person riding a bicycle on a roadway has a duty to operate it safely on the roadways. (S.C. Code Section 56-5-3420). Whether or not Mr. Mayers was impaired at the time of the accident is relevant and therefore, should be considered by a jury when determining whether or not Mr. Mayers was breaching his duty to properly and safely operate a bicycle on the roadway.

Under South Carolina law, only relevant evidence that tends to prove or disprove the existence of a material fact is admissible. Jamison v. Ford Motor Co., 644 S.E.2d 755, 766 (S.C. Ct. App. 2007) (citing SCRE 401). "Evidence which is not relevant is not admissible." Doe v. Doe, 634 S.E.2d 51, 59 (S.C. Ct. App. 2006) (quoting SCRE 402). Prior to the photographs or any testimony elicited regarding the beer cans, testimony had been given regarding Mr. Mayers appearing unsteady on his bicycle. Counsel for Mr. Mayers, chose to call Mr. Henthorn as his first witness to the stand. Upon direct examination and further on the cross-examination, Mr. Henthorn testified that he recalled observing Mr. Mayers "wobbling" on his bicycle before "abruptly" entering into Mr. Henthorn's lane of travel. [Trial Transcript, p. 72-73, lines 24-9 and p. 106-107, lines 3-4]. An eyewitness, Ms. Williams, also testified that she observed Mr. Mayers unsteady

while operating his bicycle in the median. [Trial transcript, p. 147, lines 4-17]. Ms. Williams also testified that at the scene of the accident she observed the beer cans and smelled alcohol on Mr. Mayers breath. [Trial Transcript. p.143, lines 10-19 and p. 148-149, lines 22-3]. Here, the lower court, in its sound discretion, and after hearing corroborating testimony, agreed that the photographs tended to prove that Mr. Mayers was impaired and not operating his bicycle safely on the road, which therefore, was relevant and admissible in order to show comparative fault on behalf of Mr. Mayers.

"Relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." (SCRE 403). Here, the lower court correctly found that the photographs of the beer cans found at the scene of the accident are, without a doubt, probative. The lower court also correctly found that the probative value of the photographs was not substantially outweighed by the danger of unfair prejudice.

2. Medical Records

Similar to the photographs that depicted beer cans found at the scene of the accident, the lower court, in its sound discretion, correctly found that the medical records, which stated, "Patient drank approximately 2-24 ounce beers", were relevant, and therefore, admissible in order to show comparative fault on behalf of Mr. Mayers. Additionally, the lower court did not abuse its discretion in finding the statement contained within the medical records was an exception to hearsay under SCRE 803(4), and therefore admissible.

SCRE 803 provides several hearsay exceptions, including "statements for purposes of medical diagnosis or treatment", which, does not require the declarant to be available as a witness. SCRE 803(4) allows for the admission of hearsay involving, "statements made for the purposes of

medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception of general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment." The Supreme Court held in Todd v. Joyner that hearsay exception for statements for purposes of medical diagnosis or treatment applied to passenger's statements to physicians in passenger's medical records, and thus statements were admissible in personal injury action arising from automobile accident. Todd v. Joyner (S.C. 2009) 385 S.C. 421, 685 S.E.2d 595.

An abuse of discretion occurs when the conclusions of the trial court either lack evidentiary support or are controlled by an error of law." State v. Commander, 396 S.C. 254, 262-63, 721 S.E.2d 413, 417 (2011) (quoting State v. Pagan, 369 S.C. 201, 208, 631 S.E.2d 262, 265 (2006)).

Here, the statements made in the medical records reference specifically "24 ounce beers." That statement is consistent with the photographs that depict two, 24 ounce beers, which were photographed at the scene of the accident. Additionally, Ms. Williams testified having observed the 24 ounce beer cans at the scene. Therefore, the court did not abuse its discretion when allowing into evidence the statements made in the medical records as there was evidentiary support for that finding.

The lower court's decision in finding the medical records were relevant and fell under SCRE rule 803(4) was well reasoned and absent of any clear abuse of discretion. Therefore, as the law cited above provides, the trial court's decision should be affirmed.

C. The Trial Court Correctly Denied Appellant's Motion for JNOV and New Trial.

When ruling on a Motion for JNOV, a trial court is required to view the evidence and the inferences that reasonably can be drawn therefrom in the light most favorable to the party opposing

the motions. Pye v. Estate of Fox, 369 S.C. 555, 56 3.633 S.E.2d 505, 509 (2006). If the evidence as a whole is susceptible of more than one reasonable inference, a jury issue is created and a JNOV motion should be denied. Parrish v. Allison, 376 S.C. 308, 319, 656 S.E.2d 382, 388 (Ct. App. 2007). On JNOV motions, the trial court does not have "the authority to decide credibility issues or to resolve conflicts in the testimony or evidence." Thomas v. Dootson, 377 S.C. 293, 297, 659 S.E.2d 253, 255 (Ct. App. 2008) ("[I]t is the jury that must decide what part of the witness's testimony it wants to believe and what part it wants to disbelieve."). When considering a Motion for JNOV, a trial judge is concerned with the existence of evidence and not its weight. State v. Wakefield, 323 S.C. 189, 197, 473 S.E.2d 831, 835 (Ct. App. 1996). Therefore, a jury's verdict should not be overturned if any evidence exists that sustains the factual findings implicit in its decision. Id. (emphasis added).

"The granting or denial of a new trial upon the facts rests within the discretion of the trial judge." South Carolina State Highway Dep't v. Clarkson, 267 S.C. 121, 126, 226 S.E.2d 696, 697 (1976). South Carolina's thirteenth juror doctrine is a vehicle by which a trial court may grant a new trial absolute when it finds the evidence does not justify the verdict. Trivelas v. S.C.D.O.T., 357 S.C. 545, 553, 593 S.E.2d 504, 508 (Ct. App. 2004) (citing Norton v. Norfolk S. Ry. Co., 350 S.C. 473, 478, 567 S.E.2d 851, 854 (2002)). A jury verdict should be upheld when it is possible, so as to carry out the effect of the jury's clear intention. Billups v. Leliuga, 303 S.C. 36, 39, 398 S.E.2d 75, 76 (Ct. App. 1990).

First, Mr. Henthorn's testimony provides that he had been well established in his lane of travel when Mr. Mayers "abruptly" entered into his lane, causing the collision. [Trial Transcript, p. 72-73, lines 24-9 and p. 106-107, lines 3-4]. Second, testimony was elicited by both parties with regard to Mr. Mayers' impairment at the time of the accident and whether his impairment

contributed to the accident. As stated above, both Mr. Henthorn and eyewitness, Ms. Williams testified that Mr. Mayers appeared unsteady on his bicycle. [Trial transcript, p. 147, lines 4-17]. Ms. Williams further testified that she smelled alcohol on Mr. Mayers' breath after the accident. [Trial Transcript, p.143, lines 10-19 and p. 148-149, lines 22-3]. Medical records also indicated that Mr. Mayers had consumed alcohol the day of the accident. [Court's Exhibit 5 – MUSC Records]. Finally, and to the contrary, the jury was also presented with testimony from Mr. Mayers who testified that he had not had any alcohol to drink on the day of the accident. [Trial Transcript, p. 159, lines 5-6]. It is clear that there was more than enough evidence that existed to create factual disputes regarding liability, which was an issue for the jury to resolve. As the law cited above provides, the standard is that all inferences are to be drawn in support of the jury's determination. Therefore, the lower court's order denying Plaintiff's Motion for JNOV and in the Alternative a New Trial should be affirmed.

V. CONCLUSION

The lower court correctly deemed liability was not admitted. The lower court further correctly found the evidence of the presence of empty beer cans at the scene, testimony regarding impairment, and Mr. Mayers' medical records related to the accident were relevant to the issue of liability, were not substantially outweighed by the danger of unfair prejudice, and admissible. Finally, the lower court correctly denied Appellant's Motion for JNOV and in the Alternative A New Trial. Therefore, Respondent respectfully requests the lower court's February 21, 2020 Order/Verdict Form and the March 4, 2020 Order both be affirmed.

[signature on following page]

Respectfully Submitted by:

CLARKSON, WALSH & COULTER, P.A.

Michael T. Coulter (SC Bar #15177)
1164A Woodruff Road (29607)
PO Box 6728
Greenville, SC 29606
T: 864.232.4400
mcoulter@clarksonwalsh.com

Attorneys for Respondent

Greenville, SC

August 27, 2020

RECEIVED
Aug 27 2020
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
The Honorable Bentley Price, Circuit Court Judge

Civil Action No. 2017-CP-10-5824
Appellate Case No.: 2020-000534

John Mayers — Appellant,

v.

Konan Henthorn — Respondent.

PROOF OF SERVICE

The undersigned attorney hereby certifies that a true copy of ***Initial Brief of Respondent and Designation of Matter to be Included in the Record on Appeal*** in the above-referenced case has been served upon counsel of record via AIS email [pursuant to the Court's May 29, 2020 Operation of the Appellate Courts During the Coronavirus Emergency Order] on August 27, 2020 to the following:

Alexis W. McCumber – alexis@akimlawfirm.com

Eric M. Poulin - eric@akimlawfirm.com

Roy T. Willey, IV - roy@akimlawfirm.com

Team McCumber – teammccumber@googlegroups.com

(SIGNATURE PAGE TO FOLLOW)

Michael T. Coulter (SC Bar #15177)
1164A Woodruff Road (29607)
PO Box 6728
Greenville, SC 29606
T: 864.232.4400

Attorney for Respondent Konan Henthorn

Greenville, South Carolina
August 27, 2020