

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

**May 27 2021**

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas, Business Court Program

**SC Court of Appeals**

R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2020-001645  
Case No. 2019-CP-23-00998

McMillan Pazdan Smith, LLC, . . . . . Plaintiff/Counterclaim Defendant-Respondent,

v.

Donza H. Mattison, . . . . . Defendant/Counterclaimant-Appellant,

Donza H. Mattison, in a Derivative  
Capacity on Behalf of McMillan Pazdan  
Smith, LLC, . . . . . Third-Party Plaintiff-Appellant,

v.

Rondald G. Smith, Joseph M. Pazdan,  
Brad B. Smith, and Chad C. Cousins. . . . . Third-Party Defendants-Respondents.

APPELLANT’S CORRECTED DESIGNATION OF MATERIAL TO BE  
INCLUDED IN RECORD ON APPEAL

Appellant, Donza H. Mattison, by and through her undersigned counsel, hereby submits this  
Corrected Designation of Material to be Included in the Record on Appeal:

1. Complaint (Feb. 22, 2019)
2. Verified Amended Answer, Counterclaims, and Third-Party Complaint (July 30, 2019)
3. Memo from MPS Management Committee to Donza Mattison (Nov. 14, 2017)
4. Severance Agreement and General Release (Dec. 5, 2017)
5. Confidentiality and Non-Disclosure Agreement (Oct. 18, 2018)
6. Letter of Aug. 3, 2018 from Attorney T. Keim to Attorney D. Rothstein

7. Letter of Jan. 14, 2019 from Attorney D. Rothstein to Attorney T. Keim
8. Operating Agreement of McMillan Pazdan Smith, LLC (Sept. 25, 2009)
9. Amended and Restated Operating Agreement of McMillan Pazdan Smith, LLC (Sept. 30, 2015) (not signed by D. Mattison)
10. Email from C. Cousins to MPS Members, with attachments (Nov. 13, 2019)
11. Response to Donza H. Mattison's November 4, 2019 Letter
12. Signed Member Statements in Opposition to Derivative Action
13. Defendant's Renewed Motion for Disqualification of Plaintiff's Counsel (Oct. 24, 2019)
14. Memorandum of Law in Support of Defendant's Renewed Motion for Disqualification of Plaintiff's Counsel (with Exhibits A & B) (Dec. 11, 2019)
15. Plaintiff's Memorandum in Opposition to Disqualification (Dec. 11, 2019)
16. Letter of Dec. 16, 2019 to Judge McIntosh memorializing rulings from telephone conference of Dec. 13, 2019
17. Email of Dec. 17, 2019 from Judge McIntosh confirming letter summarizing ruling
18. Email and letter of January 3, 2020 from Judge McIntosh to counsel
19. Rule 56(f) Affidavit of Defendant's Counsel, David E. Rothstein
20. Mattison Affidavit, with Exhibits 1-5 (May 14, 2020)
21. Joslin Depo. Excerpts (pp. 1, 13, 31, 32)
22. Jacobs Depo. Excerpts (pp. 1, 8, 10, 75, 145, 146, 154, 171)
23. Myers Depo. Excerpts (pp. 1, 33, 40, 76, 99, 111, 136, 137, 148, 173)
24. Love Depo. Excerpts (pp. 1, 12, 20, 21, 79-81, 117, 120, 172, 174, 213, 214)
25. Pitts Depo. Excerpts (pp. 1, 8, 22, 139, 140, 148)
26. Ballard Depo. Excerpts (pp. 1, 8, 19, 30, 37, 39, 40, 131-134, 148)
27. Transcript of Motion to Dismiss Hearing (May 16, 2019)
28. Transcript of Motion to Dismiss Hearing (Sept. 10, 2019)
29. Transcript of Motion to Quash and for Protective Order Hearing (Nov. 6, 2019)
30. Transcript of Summary Judgment Hearing (May 12, 2020)
31. Transcript of Reconsideration Hearing (Oct. 26, 2020)
32. Form 4 Order (June 14, 2019)
33. Memorandum Opinion and Order of July 2, 2019
34. Form 4 Order (Oct. 10, 2019)
35. Order of Oct. 30, 2019
36. Order of Nov. 22, 2019 (filed Jan. 23, 2020)
37. Form 4 Order (May 15, 2020)
38. Email of July 02, 2020, from Outten to Judge McIntosh with deposition transcripts of minority members Love, Pitts, and Ballard
39. Email string of July 20 and 21, 2020, from Outten to Judge McIntosh
40. Form 4 Order (Aug. 4, 2020)
41. Letter of Aug. 12, 2020 from Rothstein to Judge McIntosh objecting to proposed order
42. Order of Sept. 22, 2020 vacating award of attorneys' fees
43. Defendant's Motion for Reconsideration or to Alter or Amend Judgment
44. Order of Nov. 9, 2020 Denying Motion to Reconsider

The undersigned certifies that this Designation contains no matter which is irrelevant to this appeal.

May 27, 2021

s/ David E. Rothstein  
David E. Rothstein, SC Bar No. 66295  
Rothstein Law Firm, PA  
1312 Augusta Street  
Greenville, SC 29605  
[drothstein@rothsteinlawfirm.com](mailto:drothstein@rothsteinlawfirm.com)  
(864) 232-5870  
Attorney for Appellant

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

**May 27 2021**

**SC Court of Appeals**

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas, Business Court Program

R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2020-001645  
Case No. 2019-CP-23-00998

McMillan Pazdan Smith, LLC, . . . . . Plaintiff/Counterclaim Defendant-Respondent,

v.

Donza H. Mattison,. . . . . Defendant/Counterclaimant-Appellant,

Donza H. Mattison, in a Derivative  
Capacity on Behalf of McMillan Pazdan  
Smith, LLC,. . . . . Third-Party Plaintiff-Appellant,

v.

Rondald G. Smith, Joseph M. Pazdan,  
Brad B. Smith, and Chad C. Cousins. . . . . Third-Party Defendants-Respondents.

PROOF OF SERVICE

I certify that I have served the Appellant’s Corrected Designation of Material to be Included in Record on Appeal on Respondents, McMillan Pazdan Smith, LLC, Rondald G. Smith, Joseph M. Pazdan, Brad B. Smith, and Chad C. Cousins, by email and by depositing a copy in the United States Mail, postage prepaid, on May 27, 2021, addressed to their following attorneys of record, as indicated below: Samuel W. Outten and Miles Coleman, Nelson Mullins Riley & Scarborough LLP, 2 W. Washington St., Suite 400, Greenville, SC 29601 (mail and email); Thomas H. Keim, Jr., Ford Harrison, 100 Dunbar St., Suite 300, Spartanburg, SC 29306 (email only); and A. Mattison Bogan (email only), Nelson Mullins Riley & Scarborough, LLP, 1320 Main St., 17<sup>th</sup> Floor, Columbia, SC 29201.

[Signature of Counsel on Following Page]

May 27, 2021

s/ David E. Rothstein  
David E. Rothstein, SC Bar No. 66295  
Rothstein Law Firm, PA  
1312 Augusta Street  
Greenville, SC 29605  
[drothstein@rothsteinlawfirm.com](mailto:drothstein@rothsteinlawfirm.com)  
(864) 232-5870  
Attorney for Appellant