

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON)

Roosevelt Simmons)

CASE NO.

Plaintiff)

2011-CP-10-1084

v.)

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Mase & Company, Llc Et Al.)

Defendant.)

Plaintiff's Attorney: Edward A. Bertele, Bar No. 72521 Address: 1812 Pierce Street Charleston, SC 29492 phone: 843-471-2082 fax: 843-471-2082 e-mail: eberte@msn.com other:	Defendant's Attorney: _____, Bar No. Address: phone: _____ fax: _____ e-mail: _____ other: _____
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: Partial summary judgment(amended) Estimated Time Needed:15 min. Court Reporter Needed: <input type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type <input type="checkbox"/> Written motion attached <input type="checkbox"/> 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 <input checked="" type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant	August 31, 2012 Date submitted
SECTION III: Motion Fee <input checked="" type="checkbox"/> PAID – AMOUNT: \$25. <input type="checkbox"/> EXEMPT: <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support (check reason) <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> 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: <input type="checkbox"/> Other:	
JUDGE'S SECTION <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	_____ JUDGE CODE: _____ Date: _____
CLERK'S VERIFICATION Date Filed: _____ Collected by: _____ <input type="checkbox"/> MOTION FEE COLLECTED: _____	

CONTESTED – AMOUNT DUE: _____

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
IN THE NINTH JUDICIAL CIRCUIT
CASE NO. 2011-CP10-1084

ROOSEVELT SIMMONS)
Plaintiff)
Vs.)
MASE and COMPANY, LLC,)
J. AL CANNON, JR.,)
CHARLESTON COUNTY)
SHERIFF'S DEPARTMENT,)
CHARLESTON COUNTY,)
CHARLESTON COUNTY)
REVENUE COLLECTIONS)
DEPARTMENT and)
HARRY LONG)
Defendants)

FILED
2012 SEP -5 PM 1:20
JULIE J. ARMSTRONG
CLERK OF COURT
BY *[Signature]*

**PLAINTIFF'S AMENDED MOTION FOR
PARTIAL SUMMARY JUDGMENT**

PLEASE TAKE NOTICE that on the tenth day following service of the within NOTICE of MOTION or as soon thereafter as counsel may be heard, plaintiff Roosevelt Simmons, by his attorney, Edward A. Bertele, Esq. shall move before the Court of Common Pleas for the Ninth Judicial Circuit at the Charleston County Courthouse, 100 Broad Street, Charleston, SC 29401 for an Order pursuant to South Carolina Rules of Civil Procedure 56 for partial summary judgment as to the First, Second and Third Counts of the Second Amended Complaint. Plaintiff relies upon the pleadings filed heretofore, the discovery on file, the Affidavit of Roosevelt Simmons and the reasons set forth herein.

FACTS RELEVANT TO THIS MOTION

At all relevant times Simmons was the owner of real property known as TMS 282-00-00-138 (TMS 138) located on Johns Island. TMS 138 contains a residential dwelling and is accessible only by private road off Kitford Road. See Second Amended Complaint (SAC) at para. 1. S.C. Code Section 44-55-1210 authorizes a county to provide and regulate solid waste

collection and disposal and to levy user fees only against persons for whom services are provided. On or about 1987, defendant Charleston County (the County) adopted Ordinance Section 10-56 to impose user fees upon the owners of real property located in the county for the express purpose of paying the costs of garbage and trash disposal at the county's facilities. Section 10-56 by its terms was intended to conform to S.C. Code Section 44-55-1210. Thereafter, pursuant to Ordinance Section 10-56, Charleston County imposed an "annual disposal user fee" on property owners in Charleston County including real property owned by Simmons. The user fee was included in the annual tax bill sent out by the Charleston County Auditor. See Exhibit A. Simmons contends that each year after the user fee was included on his tax bill for TMS 138, he went to the Auditor's office to object to these fees being included with his taxes and requested that the fee be removed. The Auditor's office said that it would be removed and gave Simmons a form indicating that it had been. See Exhibit B-1. Simmons then paid his taxes less the user fee. Simmons was not informed by the employees of the Auditor's Office that the user fee was still owed.

In May 2000, George Boniface, manager of legal processing for the Charleston County Business License/User Fee Department(now known as the Revenue Collections Department) filed a complaint in the Magistrate's Court for Charleston County. The complaint alleged that Simmons was the owner of TMS 138, that Simmons had failed to pay the amount of the user fee imposed against this property in the amount of \$89.00 for the year 2000. See Exhibit C- 1,2, 3 Boniface was not an attorney and the county had not adopted a resolution authorizing the filing of any complaints by employees of the Business License/User Fee department to collect user fees. Simmons asserts that he was never served with the summons and complaint. See Affidavit of Roosevelt Simmons. It is not disputed that Simmons did not appear at the hearing on the

complaint. A judgment, 2000-JG-10-1817, was entered on the complaint in the amount of the user fee plus costs totaling the sum of \$144.00. See Exhibit D. Simmons never received notice of entry of the judgment. See Affidavit of Roosevelt Simmons. The Business License/User Fee Department filed other complaints against Simmons in Magistrate's Court to collect the annual user fee for subsequent years and default judgments were entered on them.

In February 2009, the Business License/User Fee Department sent six judgments for annual user fees to the Charleston County Sheriff's Department for enforcement including the following: 2000-JG-10-1817; 2002-JG-10-0021; 2002-JG-10-923; 2003-JG-10-170; 2004-JG - 10-444; 2006-JG-10-931. See Exhibit E 1,2,3,4,5. These were processed by Deputy Harry Long. Deputy Long who did a public records search for assets in the name of Roosevelt Simmons. At that time, Simmons held title to several parcels of real property in addition to TMS 138, including TMS 282-00-00-135 (TMS 135), 283-00-00-498 (TMS 498) and 283-00-00-145 (TMS 145) also located on Johns Island, all of which are undeveloped and vacant land. See exhibit I -1,2,3. Simmons also owned several motor vehicles, and various pieces of heavy construction equipment and a boat. See Exhibit J-1,2,3. Deputy Long prepared a levy against Simmons interest in TMS 498 on the 2000 judgment (2000-JG-10-1817) and ignored Simmons ownership of numerous vehicles. When Deputy Long served the levy on Simmons at his home, the vehicles and other personalty were in plain sight.

Deputy Long conducted a sale of TMS 498 in November 2009. According to the Sheriff's Department record of the sale, the property was sold to the highest bidder, defendant Mase & Company, LLC for \$600. The sale proceeds were not sufficient to satisfy the amount of the judgment and costs of sale and the judgment remains unsatisfied. See Exhibit H On or about February 2010, defendant J. Al Cannon, Jr., Sheriff of Charleston County (the Sheriff) executed

a deed purporting to transfer title to TMS 498 to defendant Mase & Company, LLC. See Exhibit G-1,2,3. The Sheriff's Department did not attempt to levy against Simmons property on any other judgments and they were returned to the Business License/User Fee Department.

The First Count of the Second Amended Complaint alleges that the 2000 judgment in against Simmons is void since the Magistrates Court had no jurisdiction or authority to proceed against plaintiff Roosevelt Simmons for nonpayment of a user fee of \$89.00 imposed upon TMS 138 and that the Sheriff's deed is also void because the judgment upon it is based is void. Id.

Para. 10. The First Count also alleges that defendant Sheriff had no authority to levy and execute on TMS 498 for payment of user fees on TMS 138; that the method to enforce a user fee is governed by SC Code Section 12-49-10 and laws applicable to real property taxes and that such sale is also subject to a statutory right of redemption pursuant to South Carolina Statutes Section 12-51-90. Charleston County Code of Ordinances Section 10-56 states: "[t]he annual disposal user fee shall be due and payable within the time and in the manner prescribed by law for county ad valorem taxes pursuant to section 12-45-70 of the code . . . or other law of similar import. The treasurer shall bill and collect the annual disposal user fee established by the county council in the same manner as taxes are collected"

The Second Count of the Second Amended Complaint alleges that defendant County does not provide any trash removal services to TMS 135, 138, 498 or 499; that Simmons was not required to pay a user fee under Ordinance Section 10-56 because the County did not remove any trash from TMS 135,138, 498 or 499 ; and that all user fees imposed by the County against TMS 135,138, 498 or 499 are illegal because Simmons as owner derived no benefit from this charge as required by SC Code Section 44-55-1210.. Simmons asserts that defendant Revenue Collections Department (then known as the Business License/User Fee Department) wrongfully

commenced actions against Simmons for nonpayment of user fees imposed against TMS 138 and obtained several default judgments. The following are judgments of record against Simmons for nonpayment of user fees: 2002-JG-10-0021; 2002-JG-10-923; 2003-JG-10-170; 2004-JG -10-444; 2006-JG-10-931; 2009 -JG-10-391; 2010- JG -10-3099. See Exhibits E-1,2,3,4,5 and F -1,2. Simmons asserts that all of these judgments entered against Simmons for nonpayment of user fees are void since the Magistrates Court had no jurisdiction or authority to proceed against Simmons for nonpayment of a user fee. Finally, the Second Amended Complaint asserts that all judgments entered against Simmons for nonpayment of user fees are the result of mistake, inadvertence and neglect and should be vacated because it would be unjust and inequitable for said judgments to have prospective effect against any real or personal property of Simmons. SAC at para. 18.

The Third Count of the Second Amended Complaint alleges that the County issued tax bills against certain real property known and designated as TMS 311-00-00-024 (TMS 024) which included user fees; that according to the records of the Charleston County Tax Assessor, TMS 024 was owned by the estate of Sam Balaam. Simmons asserts that he was one of the heirs of Samuel Balaam and in order to preserve his family's interest, Simmons had his name added to the Auditor's records to receive the tax bill. See Exhibit I-4. Simmons regularly and timely paid the taxes assessed on TMS 024 and made written application to the Charleston County Auditor for waiver of the user fees. See Exhibit B-2 Notwithstanding his voluntary payment of real estate taxes, Simmons asserts he had no legal obligation to pay user fees imposed against TMS 024 . Simmons asserts that notwithstanding the waiver of the user fees by the Auditor, the Revenue Collections Department commenced various law suits against Simmons in the Magistrate's Court of Charleston County for collection of the user fee imposed on TMS 024 . A

portion of judgment 2009-JG-10-391 entered against Simmons includes users fees imposed against TMS 024. See Exhibit K. Simmons contends that the Magistrate's Court had no jurisdiction or authority to proceed against him for nonpayment of a user fee and that all judgments or portions thereof entered against Roosevelt Simmons for nonpayment of user fees imposed upon TMS 024 are void.

Simmons asserts that he is entitled to partial summary judgment as matter of law as to the First, Second and Third Counts of the Second Amended Complaint. These counts allege that the judgments obtained by defendant Revenue Collections Department Business (formerly known as License/User Fee Department) for nonpayment of user fees entered against Simmons by the Magistrate's Court are void and the resulting sale of TMS 498 based upon one of them is also void. The applicable law supports Simmons contention.

LEGAL ARGUMENT

Summary judgment is proper when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Bayle v. South Carolina Dep't of Transp., 344 S.C. 115, 119, 542 S.E.2d 736, 738 (Ct. App. 2001), cert. denied; Young v. South Carolina Dep't of Corrections, 333 S.C. 714, 511 S.E.2d 413 (Ct. App. 1999); see also Bruce v. Durney, 341 S.C. 563, 534 S.E.2d 720 (Ct. App. 2000) (a motion for summary judgment shall be granted if pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show there is no genuine issue as to any material fact and moving party is entitled to judgment as a matter of law). Under SC Rule 56(c), the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. Baughman v. A.T. & T., 306 S.C. 101, 115, 410 S.E.2d at 545. (1991). Once the moving party

carries its initial burden, the "opposing party must, under Rule 56(e), 'do more than simply show that there is some metaphysical doubt as to the material facts' but 'must come forward with specific facts showing that there is a genuine issue for trial.'" Id. (quoting Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87, 106 S. Ct. 1348, 1356, 89 L. Ed. 2d 538 (1986)) (emphasis in original). The party opposing summary judgment cannot simply rest on mere allegations or denials contained in the pleadings. Id.; George v. Empire Fire & Marine Ins. Co., 344 S.C. 582, 545 S.E.2d 500 (2001).

A. The Magistrate's Court lacked subject matter jurisdiction to collect a user fee.

Subject matter jurisdiction refers to the court's "power to hear and determine cases of the general class to which the proceedings in question belong." Dove v. Gold Kist, Inc., 314 S.C. 235, 237-38, 442 S.E.2d 598, 600 (1994) ; Great Games, Inc. v. S.C. Dep't of Revenue, 339 S.C. 79, 83 n. 5, 529 S.E.2d 6, 8 n. 5 (2000). The judgments complained off were all entered by the Magistrate's Court of Charleston County for unpaid user fees. The Magistrate's Court has limited jurisdiction which does not include a claim for fees due to the county. SC Code Ann. Section 22-3-10(1) provides that the Magistrate's Court has concurrent jurisdiction (with the Circuit Court) "in actions arising on contracts"; Section 22-3-10 (3) provides for jurisdiction "in actions for a penalty, fine or forfeiture". An action to collect the amount of an unpaid user fee is neither an action on a contract or for a fine or penalty. Accordingly, the Magistrate had no jurisdiction to hear and decide the case.

Further , the particular ordinance authorizing the payment of a user fee, Charleston County Code of Ordinances Section 10-56 states: " [t]he annual disposal user fee shall be due and payable within the time and in the manner prescribed by law for county ad valorem taxes pursuant to section 12-45-70 of the code . . . or other law of similar import. The treasurer shall

bill and collect the annual disposal user fee established by the county council in the same manner as taxes are collected” There was no authorization given to collect the user fee by suit in Magistrate’s Court. Since the governing ordinance requires that the user fee be collected like “ad valorem taxes” the method to enforce a user fee is governed by SC Code Section 12-49-10 and laws applicable to real property taxes and that such sale is also subject to a statutory right of redemption pursuant to South Carolina Statutes Section 12-51-90.

The user fee is a variety of a tax. As the South Carolina Supreme Court stated in Powell v. Chapman, 260 S.C. 516, 197 S.E.2d 287 (1973): “ The essential characteristics of a tax are that it is not a voluntary payment or donation, but an **enforced contribution**, enacted pursuant to legislative authority, in the exercise of the taxing power, the contribution being of a proportional character, payable in money, and imposed, levied, and collected for the purpose of raising revenue, to be used for public or governmental purposes.” (emphasis added) See 84 C.J.S. Taxation s 1, at page 32. Therefore, under the statute providing subject matter jurisdiction to the Magistrate’s Court or the Ordinance creating the user fees, the Magistrate’s Court had no jurisdiction over the suits brought by the Business License/User fee Department.

B. A judgment of a court without subject matter jurisdiction is subject to collateral attack

Simmons filed this action under R 60(b), SCRCF to vacate an earlier judgment by default which was entered against him based upon a lack of subject matter jurisdiction. It is not disputed that this judgment was entered on the basis of a default and that Simmons did not appear to contest the claim. Simmons denies receiving notice of this complaint or of the entry of the judgment. Simmons contends that he was only aware of the judgment when a deputy Sheriff came to his home to execute on the judgment in August 2009. Simmons filed this action after he discovered that TMS 498 had been sold in 2010.

The entry of final judgment in the Magistrate's Court action does not bar this action under the principle of res judicata. Rule 60(b), SCRPC states that in addition to motions post judgment to vacate a judgment, the court may also "entertain an independent action to relieve a party from a judgment". In T v T, 378 S.C.127, 662 S.E.2d 413 (Ct. App. 2008), the Court of Appeals reversed a judgment dismissing an independent action to set aside a prior paternity judgment where paternity was not contested. In discussing the circumstances where R 60(b) is applicable, the Court of Appeals said: "In essence, the rule merely reflects many of the considerations attendant to an equitable analysis." 378 S.C. at 136. 662 S.E.2d at 417. See National Surety Co. of N.Y. v. State Bank of Humboldt, 120 Fed. 593 (8th Cir. 1903). Therefore, Rule 60 (b) provides that equitable relief in the form of vacating an earlier judgment may be granted in a subsequent action based upon an equitable analysis.

In Bunkum v. Manor Properties, 321 S.C. 95,100, 467 S.E.2d 758 (Ct. App. 1996), plaintiff commenced an action pursuant to Rule 60(b), SCRPC, seeking to have a "Supplemental Order of Judgment of [sic] Costs" entered by the Charleston County Master In Equity declared void because the master exceeded the scope of his authority. The Court of Appeals noted that the plaintiff failed to appear before the master at the hearing on the motion, and failed to directly appeal the master's order. However, the court held that "issues relating to subject matter jurisdiction may be raised at any time, cannot be waived even by consent, and should be taken notice of by this court on our own motion." The Court of Appeals concluded that the master lacked jurisdiction to issue the Order and reversed. See Johnson v. State, 319 S.C. 62, 459 S.E.2d 840 (1995); State v. Richburg, 304 S.C. 162, 403 S.E.2d 315 (1991); State v. Gorie, 256 S.C. 539, 183 S.E.2d 334 (1971); Eichor v. Eichor, 290 S.C. 484, 351 S.E.2d 353 (Ct.App.1986). Bunkum has been relied upon subsequently in Ness v. Eckerd Corp., 350 S.C. 399, 566 S.E.2d

193, 195 (Ct. App. 2002); Brown v. Greenwood School Dist. 50 Bd. of Trustees, 344 S.C. 522, 544 S.E.2d 642, 643 (Ct. App. 2001) and Eldridge v. City of Greenwood, 331 S.C. 398, 408 503 S.E.2d 191, 196 (Ct. App. 1998).

Plaintiff has found no comparable precedent in which an appellate court refuses to allow the plaintiff to seek to vacate an earlier default judgment based upon a lack of subject matter jurisdiction and asserts that the Bunkum case controls this situation. Therefore, plaintiff contends that the law is clear that an independent action can be brought to vacate an earlier judgment for lack of subject matter jurisdiction

C. A judgment of a court without subject matter jurisdiction is void

The South Carolina Supreme Court has consistently adhered to the rule that the acts of a court without jurisdiction are without effect. Toomer v. Toomer, 244 S.C. 399, 137 S.E.2d 406 (1964) As stated in Ex parte Hart, 186 S.C. 125, 133, 195 S.E. 253, 256 (1938): “It is a universal principle as old as the law, that the proceedings of a Court without jurisdiction are a nullity, and its judgment without effect, either on the person or property.” Ross v. Richland County, 270 S.C. 100, 240 S.E.2d 649, 651 (S.C. 1978)

It is elementary that lack of jurisdiction of the cause or subject matter can be raised at any time, including for the first time on appeal. State v. Castleman, 219 S.C. 136, 64 S.E.2d 250 (1951); State v. Adams, 73 S.C. 435, 53 S.E. 538 (1906). It is immaterial that the defendant failed to appeal from the earlier ruling or the intermediate ruling even if it be assumed that he had the right to do so. State v. Funderburk, 259 S.C. 256, 191 S.E.2d 520,523 (1972); Town of Hilton Head Island v. Godwin, 370 S.C. 221, 634 S.E.2d 59 (Ct. App. 2006); Amisub of S.C., Inc. v. Passmore, 316 S.C. 112, 114, 447 S.E.2d 207, 208 (1994). The lack of subject matter jurisdiction can be raised at any time, can be raised for the first time on appeal, and can be raised

sua sponte by the court. See, e.g., Lake v. Reeder Constr. Co., 330 S.C. 242, 248, 498 S.E.2d 650, 653 (Ct.App.1998).

In Rock Hill Body Co. v. Rainey, 294 S.C. 426, 430, 365 S.E.2d 228 (Ct. App. 1987), the court ruled that the jurisdiction of the Magistrate's Court was limited under South Carolina Code Section 22-3-10. The Court found that S.C. Code Ann Section 29-15-10 authorized the magistrate to sell property subject to a mechanics lien but not to do so if the amount of the lien exceeded the statutory limit of its jurisdiction (then \$1000.00). Since the matter in dispute exceeded this, the issue should have been transferred to the Circuit Court. Because the magistrate's Court failed to do so, the Court of Appeal vacated the lower court judgment. Rock Hill Body Co. v. Rainey stands for the proposition that the Magistrate's Court is of limited jurisdiction and extends only to what the legislature specifically authorized.

Since R 60(b) authorizes an independent action as well as a motion, Simmons contends that this action is just as appropriate a means to vacate an earlier judgment based upon a lack of subject matter jurisdiction as a motion in the Magistrate's Court. Furthermore, Simmons has asserted other claims for civil rights violations and tort against the County and Sheriff's Department over which the Magistrate's Court has no jurisdiction. Therefore, this action is clearly within the scope of the relief provided by R 60(b) to vacate an earlier judgment which is void for lack of subject matter jurisdiction.

D. The material facts are not in dispute

The judgments which Simmons seeks to vacate were obtained for the amount of the user fees imposed on TMS 138 for various years. They were not fines or penalties. The County has not presented any evidence to the contrary. The material facts are not in dispute and Simmons is

entitled to partial summary judgment as to the First, Second and third Counts of the Second Amended Complaint as a matter of law.

E. The equities favor the plaintiff

Finally, Simmons contends that the balance of the equities justify the relief requested. Simmons has asserted that he did not receive notice of either the complaint or of the judgment entered against him which resulted in the sale of TMS 498 and the county has not presented evidence to the contrary. Simmons has asserted that he believed that the waivers he received from the Tax Collector's Office relieved him from the obligation to pay for user fee. Simmons has asserted that he did not receive any solid waste removal services. The county has not presented any evidence to the contrary. Simmons contends that he was not responsible for payment of such fees under the language of the ordinance authorizing their collection. In summary, all of the equities favor the granting of the relief sought- declaration that the user fee judgments are void.

F. The Sheriff's sale and Deed pursuant to a void judgment are void

Because the underlying judgment is void, the Sheriff's sale and deed based upon the execution on that pursuant are also void. S.C. Code Ann Section 15-39-610 provides for sale of property following execution upon a judgment which remains unpaid for 5 days. The sale relies upon the validity of the execution which relies upon the validity of the judgment. Therefore, the Sheriff sale and deed which was based upon the invalid judgment should be also be vacated .

CONCLUSION

Partial summary judgment should be granted as to the First, Second and third Counts of the Second Amended Complaint vacating all judgments entered against Simmons for the payment of a user fee in the Magistrate's Court. Plaintiff has established that he is entitled to

judgment as matter of law that the Magistrate's Court judgments are void and respectfully requests that the court grant his motion.

Respectfully submitted,

Edward A. Bertele, Esq.
1812 Pierce Street
Charleston, SC 29492
(843) 471-2082


Attorney for plaintiff, Roosevelt Simmons'

By: 

Dated: August 31, 2012
Charleston, SC

CERTIFICATION OF SERVICE

I hereby certify that a true copy of the within Amended Motion for Partial Summary judgment on the Second Amended Complaint was served upon the defendants' attorneys, Christopher Dorsel, Esq. and Wendy Keefer, Esq. by regular mail postage prepaid at their last known mailing address.


Edward A. Bertele, Esq.

August 31, 2012

**EDWARD A. BERTELE, ESQ.
ATTORNEY AT LAW
1812 PIERCE STREET
CHARLESTON, SC 29492
Email: ebertele@msn.com**

Member: SC, NJ & NY bars

Ph: (843) 471-2082
Fax: (843) 471-2082

August 31, 2012

Ms. Julie J. Armstrong
Clerk of the Court
Charleston County Courthouse
100 Broad Street
Charleston, SC 29401

Re: Simmons v. Mase and Co, LLC. et al
Case No. 2011-CP-10-1084

Dear Ms. Armstrong:

Enclosed for filing is plaintiff's Amended Motion for Partial Summary Judgment and Certificate of Service. Thank you for your kind assistance in this matter.

Very truly yours,


Edward A. Bertele, Esq.

Encl:

CC: Chris Dorsel, Esq. w/o enclosure
Wendy Keefer, Esq. “ “