

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

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

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
2019 SEP 23 AM 9:26
JULIE A. HENNING
CLERK OF COURT
BY _____

AFFIDAVIT OF
EDWARD A. BERTELE

County of Berkeley)
State of South Carolina)

Edward A. Bertele being duly sworn according to law upon his oath deposes and says:

1. I am the attorney for Plaintiff in this action, a member of the bar of this state and have personal knowledge of the facts herein.
2. I submit this affidavit in support of my application to be relieved as Counsel for Plaintiff based upon the following facts and circumstances.
3. I filed this action in 2011 to set aside a 2009 Sheriff's sale of real property known as TMS 498 which was sold to enforce a judgment against Plaintiff for failure to pay an \$89.00 solid waste removal fee on his house in 2000. The case was dismissed on summary judgment but the Court of Appeals ordered a remand on certain issues one of which is whether Plaintiff is barred by laches from recovering his property.

4. Defendant Mase and Company filed Motion for summary judgment as to the laches issue which is returnable on September 23, 2019. After I received the motion, in May and June 2019, I wrote to Plaintiff asking him to sign affidavits and contact me regarding a response. Plaintiff would not agree to sign the Affidavits I sent to him to use in opposition to the Mase Motion.

5. In August 2019 I received a copy of some type of “complaint” which Plaintiff filed with the Supreme Court about a 2004 case involving heirs’ property on Johns Island naming me as a Defendant. See Exhibit A. I was not involved in that case but Plaintiff retained me in 2009 to bring an action to have the judgment in that case overturned even though his then Counsel, Charles Houston, Esq. had appealed it previously and the Court of Appeals dismissed the appeal. The case I filed was dismissed by Judge Nicholson and the Court of Appeals affirmed. This “complaint” also named all the participants in the 2004 case and Judge Nicholson and Master in Equity Mikell Scarborough who heard a related case. I called Plaintiff and left a voicemail message saying that unless he withdrew any claim against me I would ask to be relieved in this case. Plaintiff never responded to my phone call. I called the Supreme Court and the Clerk indicated that no response needed to be filed unless the Court directed it.

6. Since Plaintiff did not terminate my services and I was still counsel of record, I chose to continue to represent him in an effort to resolve this matter which had been pending since 2011. I wrote to Plaintiff and asked him to allow me to negotiate with Defendant Mase and Company in an effort to settle this case. He refused to allow me to do so and did not terminate my services.

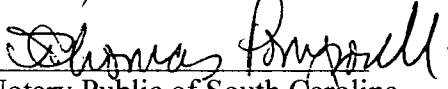
7. In order to protect Plaintiff’s rights, I filed an Opposition to Mase’s Motion which included testimony that was already in the Record and legal argument. Plaintiff’s Opposition is part of the Motion Record before the Court.

8. I called Plaintiff on September 19th to ask him if he would attend the Motion hearing but there was no answer. I had previously told him in a letter dated August 14, 2019, that the Motion Hearing was scheduled for September 23. Because I wanted to be sure he was aware of it, I sent him an overnight letter reminding him of the hearing. He called me on September 21st and said he didn't have enough notice of the hearing, that he couldn't attend. I asked him if he wanted to dismiss me and he refused to answer but said that I should make the Motion Judge aware of the pending complaint.

9. I request to be relieved as Counsel for Plaintiff under S.C Rules of Professional Conduct 1.16 (b)(6) under which " the representation has been rendered unreasonably difficult by the client". By filing a "complaint" against me which is lacking in any merit, by refusing to assist me in preparing a defense to a pending dispositive motion; by refusing to allow me to negotiate a settlement, by refusing to give me any direction concerning the pending matter, Plaintiff has made it unreasonably difficult for me to continue to represent him.


Edward A. Bertele

Sworn and subscribed before me
This 23th day of September 2019


Notary Public of South Carolina

