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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

The Honorable Michael G. Nettles, Circuit Court Judge

CASE NO. 20-CP-22-00600
CASE NO. 20-CP-22-00601

Sunset Lodge, LLC,Appellant,

v.

Town of Pawleys Island,.....Respondent.

and

Franklin D. Beattie, as trustee of the Franklin D. Beattie
Preservation Trust,Appellant,

v.

Town of Pawleys Island,.....Respondent.

APPELLANTS'
DESIGNATION OF MATTER
TO BE INCLUDED IN THE
RECORD ON APPEAL
(Including Certificate of Counsel)

Appellants designate the following pursuant to Rule 209, SCACR, and their counsel
hereby certifies by his signature, that this designation contains no matter which is irrelevant to

the appeal:¹

Orders, Decrees, and Decisions

1. September 11, 2021 Form 4 order denying Town motions to dismiss, for priority and for \$10,000,000.00 bond.
2. October 21, 2020 order continuing October 30 hearing of summary judgment and other motions.
3. January 8, 2021 Judge Nettles Form 4 order preliminarily granting Landowner summary judgment.
4. January 20, 2021 Judge Nettles 24-page order granting Landowner summary judgment.
5. January 27, 2021 Judge Price order granting Landowner motion to compel.
6. February 2, 2021 Judge Price amended order granting Landowner motion to compel.
7. February 8, 2021 Form 4 order noting withdrawal of Town motion to disqualify.
8. April 1, 2021 Form 4 order partially granting Town motion for protection from discovery.
9. April 5, 2021 Form 4 order denying Town motion to reconsider except noting addition of footnote to order granting summary judgment.
10. April 5, 2021 Judge Nettles final formal order granting Landowner summary judgment.
11. April 5, 2021 Judge Nettles protective order re production of selected billing materials.
12. June 30, 2021 Judge Nettles order redacting designated materials to be produced to Town.
13. November 23, 2021 Judge Nettles order granting Landowner award of fees.
14. January 28, 2022 Judge Nettles order denying Landowner motion to reconsider.

¹ Unless otherwise specified, all designations (including those not mentioning exhibits, attachments, or other accompanying filed materials), are with all exhibits, attachments or other accompanying filed materials, but without certificates of service.

Pleadings

15. June 9, 2020 Town condemnation notice to Sunset [included once as Exhibit A to Landowner December 6, 2020 affidavit of papers first served].
16. June 9, 2020 Town condemnation notice to Beattie [included once as Exhibit B to Landowner December 6, 2020 affidavit of papers first served].
17. June 9, 2020 Town condemnation notice to Stanton [included once as Exhibit C to Landowner December 6, 2020 affidavit of papers first served].
18. July 21, 2020 Landowner Summons and Complaint to stop attempted condemnation.
19. July 31, 2020 Landowner Amended Complaint.
20. September 18, 2020 Town answer to Amended Complaint.

Transcripts

21. October 6, 2021 hearing transcript.

Exhibits and Other Materials or Documents

22. Electronic docket sheet with notations of roster notices, other electronic notices, and filings.
23. March 2, 2021 to July 13, 2021 series of e-mails of the parties with the Court, including dates 3/23/21, 3/23/, 4/1, 4/1, 4/22, 4/23, 4/23, 3/2, 3/2, 3/2, 3/2, 3/2, 3/5, 3/8, 3/11, 3/17, 3/17, 3/19, 3/19, 3/19, 3/19, 3/19, 3/21, 3/22, 3/22, 3/22, 3/23, 4/1, 4/1, 4/22, 4/23, 4/23, 4/23, 4/26, 4/26, 5/21, 5/27, 5/27, 6/3, 6/4, 6/4, 6/21, 6/21, 6/21, 6/25, and 7/13. (This string in this order can be e-mailed to Respondent's counsel.)
24. July 13, 2021 to October 13, 2021 series of e-mails of the parties with the Court, including dates 6/21, 6/25, 7/13, 8/20, 8/20, 8/20, 8/20, 8/20, 8/20, 8/27, 8/30, 8/30, 8/30, 8/30, 8/30, 10/1, 10/1, 10/4, 10/4, 10/12, 10/13, and 10/13. (This string in this order can be e-mailed to Respondent's counsel.)
25. May 18, 2020 formal resolution of Town Council [included once as attachment to Town November 24, 2020 brief in opposition to motion for summary judgment].
26. July 27, 2020 Landowner first request for production [included once as exhibit to August 27, 2020 motion to compel].
27. August 3, 2020 Town Rule 12(b)(6), SCRCPP motion to dismiss.

28. August 10, 2020 Town motion for priority and to require \$10,000,000.00 bond.
29. August 11, 2020 Landowner return to motion for priority and bond.
30. August 13, 2020 Landowner first interrogatories to Town [included once as attachment to November 5, 2020 L motion to compel].
31. August 17, 2020 e-mail roster notice of September 11, 2020 hearing of T motion to dismiss.
32. August 17, 2020 e-mail roster notice of September 11, 2020 hearing of T motion for priority and \$10,000,000.00 bond.
33. August 21, 2020 Landowner motion for summary judgment and supporting affidavit.
34. August 25, 2020 Town motion to halt discovery against Town.
35. August 27, 2020 Landowner return and affidavit opposing motion to halt.
36. August 27, 2020 Landowner motion to compel answers to first request for production with exhibits including subject discovery papers.
37. August 28, 2020 Town brief, affidavit of then Town Administrator Fabbri, and partial copy of condemnation papers served, in support of Town 12(b)(6) motion.
38. September 1, 2020 Town additional exhibit (access easement) supporting motion to dismiss.
39. September 7, 2020 Landowner brief in opposition to motion to dismiss.
40. September 28, 2020 e-mail notice for October 30, 2020 hearing of L motion for summary judgment.
41. September 28, 2020 e-mail notice for October 30, 2020 hearing of T motion to halt discovery.
42. September 28, 2020 e-mail notice for October 30, 2020 hearing of L motion to compel.
43. October 12, 2020 Court e-mail reminder notice for October 30, 2020 hearing of L motion for summary judgment.
44. October 12, 2020 Court e-mail reminder notice for October 30, 2020 hearing of T motion to halt discovery.

45. October 12, 2020 Court e-mail reminder notice for October 30, 2020 hearing of L motion to compel.
46. October 14, 2020 Town motion to continue hearing of summary judgment and other motions.
47. October 14, 2020 Landowner brief and affidavit in response to Town request for continuance.
48. October 30, 2020 Town affidavit of Fabbri, with November 20 certificate of service.
49. November 5, 2020 e-mail notice for December 4, 2020 hearing of L motion for summary judgment.
50. November 5, 2020 e-mail notice for December 4, 2020 hearing of T motion to halt discovery.
51. November 5, 2020 e-mail notice for December 4, 2020 hearing of L motion to compel.
52. November 5, 2020 Landowner motion to compel re answers to August 13, 2020 first interrogatories, including discovery requests and responses as exhibits.
53. November 20, 2020 Landowner motion for refused enlargement of time for discovery response.
54. November 24, 2020 Town brief opposing L motion for SJ, with four exhibits – Fabbri 10-30-20 aff., 5-18-20 and 10-12-20 resolutions, 60-page appraisal, and partial copy of condemnation papers served.
55. December 3, 2020 Landowner brief in support of motion for summary judgment.
56. December 6, 2020 Landowner Stanton aff., including as Exhibits A, B, and C, first condemnation papers that were served on Sunset, Beattie, and Stanton to start condemnations.
57. December 10, 2020 Landowner response to Town first interrogatories [included only once as attachment to Town January 24, 2021 motion to disqualify].
58. January 7, 2021 e-mail notice of January 20, 2021 hearing of L motion to compel.
59. January 7, 2021 e-mail notice of January 20, 2021 hearing of L motion to enlarge time.
60. January 14, 2021 Town motion to disqualify Landowners' counsel, with attached exhibits.

61. January 14, 2021 Landowner motion to strike Town motion to disqualify
62. January 15, 2021 Town attorney certification.
63. January 15, 2021 Landowner notice of deposition of then Town Administrator (Fabbri) [included only once as attachment to T 3/3/21 motion for protection].
64. January 21, 2021 e-mail notice of February 4, 2021 hearing of T motion to disqualify and L motion to strike.
65. January 25, 2021 Landowner fee petition (including motion, affidavit, proposed order and proposed Form 4A).
66. January 26, 2021 Landowner amendment to fee petition.
67. January 26, 2021 Landowner brief opposing Town January 14, 2020 T motion to disqualify.
68. January 29, 2021 Town notice of withdrawal of T motion to disqualify.
69. January 29, 2021 Town motion to reconsider summary judgment.
70. February 3, 2021 Landowner brief opposing Town January 29 motion to reconsider and partially replying to Town included arguments opposing fee request.
71. February 3, 2020 Town notice of Dillard appearance.
72. February 4, 2021 Landowner further separate reply to Town January 29 arguments opposing fee request.
73. February 4, 2021 Landowner supplemented fee petition.
74. February 5, 2021 e-mail notification of February 25, 2021 hearing of L fee petition.
75. February 5, 2021 e-mail notification of February 25, 2021 hearing of T motion for reconsideration.
76. February 5, 2021 Town brief opposing fee petition.
77. February 9, 2021 Landowner reply to Town February 5 brief opposing fee petition.
78. March 1, 2021 Landowner brief re matters for scheduled March 3 discussion with Court.

79. March 1, 2021 Town motion re fee proceedings.
80. March 2, 2021 Landowner brief and objection re Town March 1 motion.
81. March 3, 2021 Town motion for protection from discovery, with 1/15/21 notice of depo. of Fabbri as exhibit.
82. March 5, 2021 Challenge II case Town motion to dismiss, referenced in Dillard 3/5/21 e-mail to the Court.
83. March 17, 2021 Landowner brief re fee-related proceedings, with attached potential protective order.
84. March 17, 2021 Town brief in support of motion to reconsider summary judgment.
85. March 18, 2021 Landowner brief opposing Town motion to reconsider.
86. March 25, 2021 e-mail notice of April 1, 2021 hearing of T 3-1-21 motion to require L production of billing materials under protective order.
87. March 25, 2021 e-mail notice of April 1, 2021 hearing of T 3-3-21 motion for protection from discovery.
88. April 22, 2021 Landowner updated fee petition.
89. May 5, 2021 Landowner erratum re fee petition.
90. Under seal: Redacted bills and engagement agreements first sent to Circuit Judge, with transmittal notes.
91. Under seal: Unredacted bills and engagement agreements first sent to Circuit Judge, with transmittal notes.
92. Under Seal: Redacted bills and engagement agreements returned by Circuit Judge.
93. September 10, 2021 Landowner update of January 25, 2021 fee petition, with attachments.
94. September 13, 2021 Landowner erratum re fee petition.
95. September 20, 2021 Town Memorandum in Opposition to the Landowner January 25, 2021 motion for fees and expenses, Opposing Affidavit of Pagliarini, Opposing Affidavit of DuRant, Opposing Affidavit of Henry, and Opposing Affidavit of Dillard.
96. September 24. 2021 Town pre-hearing motions.

97. October 4, 2021 Landowner reply brief, with e-mail re nuclear option, affidavit of Beattie, affidavit of Howard, and counteraffidavits by Stanton to affidavits of Dillard, Pagliarini, DuRant and Henry.

98. October 5, 2021 Town aff. of Dillard of preparation of exhibit, with exhibit.

99. October 5, 2021 Landowner erratum re 10/4/21 reply brief, with amended reply brief and exhibit.

100. October 22, 2021 filed 10/18/21 letter of Judge Nettles's office filing billing materials with Clerk of Court on 10/22/21.

101. December 2, 2021 Landowner motion to reconsider.

Each designation is for all three counterparts from all three cases, unless the parties stipulate as follows. Suggested to Respondent's counsel is a stipulation that reference to a paper in one Challenge I case or Challenge II case is taken as an accurate reference to the corresponding papers and passages in the other two Challenge I or Challenge II cases, and a stipulation to including less than all the material designated herein, to wit, including, where substantially identical to corresponding papers in the other cases, one designated representative pleading, order, or other paper from the Sunset challenge case rather than from all three cases, and a stipulation that either party may explicitly designate separate additional inclusion of the counterpart of such an item, or later supplement the record with the designated papers from the other two challenge cases if that party deems it desirable to do so.

s/M. Baron Stanton

M. Baron Stanton (S.C. Bar#7970)
STANTON LAW OFFICES, P.A.
123o Main Street
P. O. Box 245
Columbia, South Carolina 29202
803-929-1484 (use 803-530-2642 pending changes)
bstanton@stantonlaw.com

ATTORNEY FOR APPELLANTS
Sunset Lodge, LLC and Franklin D. Beattie, as
trustee

Date: August 1, 2022

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CERTIFICATE OF SERVICE

I, M. Baron Stanton, do hereby certify that I have, on this date, served the foregoing **Appellants' Designation of Matter to be Included in the Record on Appeal** upon the Respondent by causing a copy to be e-mailed in accordance with current rules to will@belserpa.com . The postal mailing address of the above addressee is:

William C. Dillard, Jr., Esquire
Post Office Box 96
Columbia, SC 29202

s/M. Baron Stanton
M. Baron Stanton

Date: August 1, 2022