

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court Of Common Pleas

Larry B. Hyman, Jr., Circuit Court Judge

Case No: 2009-CP-22-01655

Richard A. Fisher, Platte B. Moring, Jr., Trustee of the Platte B. Moring, Jr. Living Trust dated March 13, 2001; Marianne Kochanski, and Jim H. Markley, III, Individually, and in a Representative Capacity on Behalf of All Persons Similarly Situated Who Own Units in Buildings C and D of the Shipyard Village Horizontal Property Regime; Robert A. Wright, Mary Beth C. Wright, H. Allen Wright, Joyce Y. Wright and Carolyn L. Wright; Carmen J. Savoca, Ann D. Savoca, William John Savoca and Donna S. Strom; James T. Hunter and Mary D. Hunter; Dwain C. Andrews; WWS, LLC, a South Carolina Limited Liability Company; Donald L. Henson and Sandra L. Henson; Allen M. Funk; Norman J. Rish and Mary T. Rish; Angela M. Markley; Walter C. Worsham and Carolyn W. Worsham; Enrico S. Piraino and Giusto Piraino; Otis T. Harrison and Rose C. Harrison; James E. Newman, Jr.; Brenda Jr.; Fuller Family, LLC; Richard T. White and Rory L. White; Propst and Dawson, LLC; Litchfield Quarters, LLC, and Larry O. Snider and Paula D. Snider; William C. Hammond, Jr., Living Trust and the Shawn S. Hammond Living Trust; GAB IV, LLC, a Virginia Limited Liability Company; Robert C. McBride and Susan R. McBride, Trustees of the Robert C. McBride Family Trust u/d/t July 24, 2008, and Susan R. McBride and Robert C. McBride, Trustees of the Susan R. McBride Family Trust u/d/t July 24, 2008; Evelyn J. Valuska; Barbara W. Beymer; Montrose Associates, LLC; Harry L. Belk and Jan C. Belk; Dennis E. Barrett and Wilma J. Barrett; First Family Properties, Inc., Cynthia L. Jones, Sandra D. Huggins and Margaret S. Dover, Thomas Franklin Huggins, Frank S. Krouse and Barbara T. Krouse, Judith W. Mill, William Mill and Susan Mill, Gene R. Riley and Patricia C. Riley, Harold LeMaster and Patti LeMaster; Joseph P. Heaton and Frances H. Heaton; Robert N. Kelly; H. S. Keeter and Sandra C. Keeter; Brian R. Nisbet Trust Agreement dated November 16, 1998 and Mary M. Nisbet Trustee of the Mary M. Nisbet Trust Agreement dated November 16, 1998; Dorothy Jean Foster; Captains Quarters D-24 Association of Owners, Inc., Michael H. Sanders and Rebecca H. Sanders, Ruth Gray Wheliss, David B. Shivell and Nicki M. Shivell, Debra B. Leeke, Joseph Alan Capobianco and Lara Serro, Sharon Gibson Daniel, Gary C. Andes and Andrea W. Andes, Jay Hendler and Laura Hendler, Joy P. McConnell, Charles W. Fortner, Judith C. Woodson, Warren W.

Riggs and Charles G. Martin, Riggs Ventures, LLC, and SGS Beach Partners, LLC; Morgan I. Mann and Angela M. Mann; Michael Cameron Foster, Sr. and Laura Lee Foster; Captains Quarters Unit D-31 Association of Multiple Ownerships, Inc., Evelyn Gail Earnest, Francis G. Thomson and Arleen S. Thomson, Robert W. Dalton, Red Oak Limited Partnership, William R. McKeown and Margaret A. McKeown, Norman K. Moon and Barbara W. Moon, David T. McGill and Carol G. McGill, Rick L. Bledsoe and Susan H. Bledsoe, Geoffrey A. Wienke and Pamela L. Wienke, A. Donald Ross, III and Nancy Kay Ross, Dennis J. Straw and Roxanne B. Straw, and Resort Investments of Litchfield, Victor A. Medina and Melinda Leigh Medina; Judy P. Hamer, Boyce F. Miller and Carole L. Miller, Raymond A. Shingler and Louise O. Shingler, Paul Larry Barnette and Carol Jane Barnette, James R. Walker and Erika T. Walker, Kathy W. Underwood, Andrew J. Wingo, Jr. and Susan A. Wingo, Melanie S. Franklin, Lois E. Cooley, Trustee of the Lois E. Cooley Living Trust, B. Lee Smith and Margaret H. Smith, Jason A. Underwood, and Camilla J. Wilson; Stewart South, LLC; Quarter South, LLC; Steven H. Frame and Kay B. Frame, Respondents,

V.

Shipyard Village Council of Co-Owners, Inc. Appellant.

Shipyard Village Council of Co-Owners, Inc. Third-Party Plaintiff,

V.

Cincinnati Insurance Company, Travelers Insurance Company, Companion Property & Casualty Insurance Company, Philadelphia Insurance Company, Zurich American Insurance Company, American Guarantee and Liability Ins. Co., St. Paul Fire and Marine Insurance Company, and Illinois National Insurance Company, Third-Party Defendants.

RESPONDENTS' DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

1. Written Order Granting Plaintiffs' Motion for Partial Summary Judgment on the issues of Duty and Breach filed on November 16, 2012, including Book of Exhibits;
2. Form 4 Order, Defendant Shipyard Village Council of Co-Owners, Inc.'s Motion to Reconsider denied, filed on November 15, 2012;

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3. Form 4 Order, Defendant and Plaintiffs' Motions for Summary Judgment are denied, filed on October 21, 2009;
4. Form 4 Order, Plaintiff's Motion for Summary Judgment Against Defendant Shipyard Village Council of Co-Owners, Inc., is partially granted filed on December 9, 2011;
5. Form 4 Order, Partial Summary Judgment Granted/Case Stayed by filing of Appeal, signed by Judge Hyman dated May 23, 2012;
6. Form 4 Order, Motion for Reconsideration Denied, signed by Judge Hyman filed November 15, 2012;
7. Consent Order to Consolidate Civil Action # 2009-CP-22-00152 dated May 24, 2010 under Civil Action # 2009-CP-22-01655;
8. Order of Substitution of Counsel dated November 1, 2012;
9. Complaint for Civil Action # 2009-CP-22-00152 dated January 29, 2009;
10. Fourth Amended Complaint for Civil Action # 2009-CP-22-01655 dated March 30, 2012;
11. Answer to Fourth Amended Complaint dated April 13, 2012;
12. Transcript of December 9, 2011 Hearing pp. 40-43;
13. Transcript of May 21-22, 2012 Hearing pp. 1-185;
14. Transcript of November 15, 2012 Hearing pp. 1-30;
15. Defendant Shipyard Village Council of Co-Owners, Inc.'s Answers to Plaintiffs' Requests for Admissions dated September 24, 2009, pp. 1-9;
16. Defendant Shipyard Village Council of Co-Owners, Inc.'s Answers to Plaintiffs' Request to Admit and Request for Genuineness of Documents dated April 21, 2010, p. 1;
17. Defendant Shipyard Village Council of Co-Owners, Inc.'s Answers to Plaintiffs' 2nd Set of Request to Admit dated June 27, 2011, pp. 5-19;

18. Plaintiffs' Notice of and Motion for Summary Judgment and/or Partial Summary Judgment Against the Defendant, including attached Exhibits, filed May 4, 2012;
19. Defendant's Notice of Motion, Motion and Memorandum in Support of Motion to Reconsider, Alter or Amend Pursuant to Rules 52 and 59, SCRCPP, filed June 6, 2012;
20. Plaintiffs' Motion in Opposition to Defendant, Shipyard Village Council of Co-Owners, Inc.'s Notice of Motion and Motion to Reconsider Alter or Amend the Court's Order Pursuant to Rules 52 and 59 SCRCPP dated June 18, 2012;
21. Defendant's Response to Plaintiffs' Motion in Opposition to Defendant Shipyard Village Council of Co-Owners, Inc.'s Notice of Motion and Motion to Reconsider, Alter or Amend the Court's Order Pursuant to Rules 52 and 59, SCRCPP, dated July 12, 2012, p. 6 ¶ 3;
22. Shipyard Village Horizontal Property Regime Master Deed filed on July 7, 1982, pp. i-iii, 1-10, 12, 15, 19, 23-24, 26, 33-34, 37, and 40 (including Exhibits C and D);
23. Shipyard Village Horizontal Property Regime Bylaws filed on July 7, 1982, pp. 1-4, 10-17, 18-20;
24. A re-recording of the 1st Amendment to Master Deed of Shipyard Village Horizontal Property Regime filed on January 19, 1999, pp. 42-44;
25. A re-recording of the 2nd Amendment to Master Deed of Shipyard Village Horizontal Property Regime filed on January 19, 1999, pp. 78-81;
26. Third Amendment of the Master Deed of Shipyard Village Horizontal Property Regime, filed October 16, 2006, p. 5, ¶ 4 and 5;
27. Correction and Clarification of Amendment to the Master Deed of Shipyard Village Horizontal Property Regime filed on November 14, 2007;
28. June 15, 1999 Organizational Meeting Minutes of the Board of Directors;
29. February 21, 2002 Special Meeting Minutes of the Board of Directors;
30. August 23, 2002 Board Meeting Minutes Management Report;
31. September 27, 2002 Special Meeting Minutes of the Board of Directors;
32. October 25, 2002 Regular Meeting Minutes of the Board of Directors;

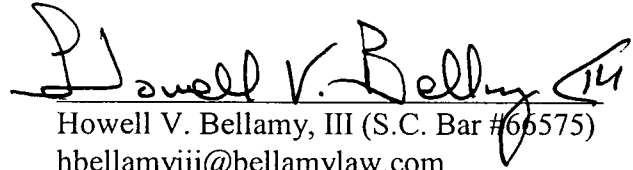
33. October 12, 2004 Special Meeting Minutes of the Board of Directors;
34. March 4, 2005 Special Meeting Minutes of the Board of Directors;
35. April 15, 2005 Special Meeting Minutes of the Board of Directors;
36. June 17, 2005 Special Meeting Minutes of the Board of Directors;
37. February 17, 2006 Special Meeting Minutes of the Board of Directors;
38. February 18, 2006 Informational Meeting Minutes of the Board of Directors;
39. March 14, 2006 Regular Meeting Minutes of the Board of the Directors;
40. April 15, 2006 Twenty-Fourth Annual Member Meeting Minutes;
41. July 28, 2006 Minutes of the Special Meeting of the Board of Directors;
42. Regular Meeting Minutes of the Board of Directors dated January 26, 2007;
43. January 26, 2007 Special Meeting Minutes of the Board of Directors;
44. April 27, 2007 Special Meeting Minutes of the Board of Directors;
45. April, 28, 2007 Twenty-Fifth Annual Members Meeting;
46. August 31, 2007 Special Meeting Minutes of the Board of Directors;
47. January 19, 2008 Special Meeting Minutes of the Board of Directors;
48. February 25, 2008 Special Meeting Minutes of the Board of Directors;
49. April 19, 2008 Board of Directors Report;
50. April 19, 2008 Twenty-Sixth Annual Members Meeting;
51. July 28, 2008 Special Meeting Minutes of the Board of Directors;
52. October 14, 2008 Special Meeting Minutes of the Board of Directors;
53. January 16, 2009 Special Meeting Minutes of the Board of Directors;

54. February 16, 2009 Special Meeting Minutes of the Board of Directors;
55. February 23, 2009 Notice of Special Members Meeting of the Board;
56. March 21, 2009 Notice of Special Members Meeting of the Board;
57. April 4, 2009 Twenty-Seventh Annual Members Meeting;
58. July 8, 2009 Notice to Co-Owners of Special Meeting;
59. November 13, 2009 Special Meeting of the Board of Directors;
60. April 9, 1993 letter from Procon Waterproofing, Inc.("Procon") to Waccamaw Management Company regarding defective conditions of Buildings A and B;
61. March 9, 1994 letter from Procon to Waccamaw Management Company regarding defective conditions of Buildings A and B, including pictures;
62. Letter from Susan Pendergrass to Unit Owners dated August 11, 1999;
63. Letter from Kellie A. Kiehl to Robert J. Moran dated October 31, 2002;
64. 2003 Letter from Dr. Jennings to Unit Owners regarding problems unit owners' windows in Buildings A and B;
65. Letter from Kellie A. Diehl to Ms. Carol Murray dated March 28, 2003;
66. E-mail from Dr. Jennings to Board Member Bob Shaffer dated March 28, 2003;
67. Letter from Mrs. Diehl to Unit Owners dated March 28, 2003;
68. Letter from the Board to Unit Owners dated July 6, 2006;
69. Letter from Schneider to Mrs. Diehl dated February 7, 2007 ;
70. E-mail from Kellie Diehl to the Board dated September 18, 2007;
71. Letter from Procon Associates, Inc.,("Procon") dated October 22, 2007, pp. 1-5, including Procon's bid estimate to repair Buildings A and B, pp. 1-6).
72. Letter from Board to Unit Owners dated September 26, 2007;
73. E-mail from Jack Eblin to the Board dated January 28, 2008;

74. Letter from attorney Jeffrey W. King to the Board dated June 9, 2008, pp. 1-4;
75. Letter from Johnson to attorney Jeffrey W. King , dated 12 June 2008 p.1;
76. HICAPS' Power Point Presentation to the Board dated July 19, 2008;
77. Letter from Stephen P. Robinson, P. E. of SKA to Vicki Gallagher of KAD dated March 27, 2009, pp. 1-3, including Figure 1. Building A and Figure 2. Building B;
78. Letter from Ms Gallagher to Unit Owners entitled Notice dated July 8, 2009, pp. 1-3, including SKA's opinion of Project Cost in the amount of \$10, 944, 46;
79. Letter from Board to Unit Owners dated August 11, 2009;
80. Letter from Board of Directors to Unit Owner from dated January 26, 2010;
81. Deposition of Michael R. Parades, PCAM ("Parades") taken on April 24, 2011, p. 242, lines 21-25; p. 243, lines 1-25, p. 244, lines 1-25; p. 245, lines 1-19;
82. Deposition of Robert Gallagher taken on July 15, 2011, p. 133, lines 1-25, p. 134, lines 1-25; p. 139, lines 15-25; p. 140, lines 1-25; p. 141, lines 1-9; p. 184, lines 6-16; p. 210, lines 18-25; p. 211, lines 1-19; p. 230, lines 18-25; p. 231, 1-25; p. 232, lines 1-25; p. 233, lines 1-19;
83. Deposition of Stephen J. Geiger taken on July 19, 2011;
84. Deposition of Don Johnston, Past President taken on April 23, 2012, p. 41, lines 16-25; p. 42, lines 1-25; p. 43, lines 1-1; p. 49, lines 12-21;
85. Deposition of Jim C. Poag, Secretary/Treasurer taken on April 18, 2012, p. 68, lines 8-11;
86. Deposition of Kenneth G. Schneider, Jr., P.E. ("Schneider") taken on taken July 26, 2011, p. 121, lines 7-25; p. 122, lines 1-17; p. 128, lines 4-14; p. 132, 1-25; p. 133, lines 1-25, p. 134, lines 1-25; p. 135, lines 1-25; p. 136, lines 1-15;
87. Deposition of J. Lawrence Elkin, P.E. taken on August 10, 2011, p. 31, lines 3-25; p. 32, lines 12-25; p. 34, lines 6-25; p. 43, lines 2-25; p. 44, line 1-13; p. 46, lines 7-19;
88. Deposition of Doris R. Bray taken on April 23, 2012, p. 53, lines 20-25; p. 54, lines 1-7;

89. Deposition of Dr. C. Leon Jennings, Jr., Past President taken on April 20, 2012;
90. Deposition of Robert M. Postiglione, Current President taken on April 23, 2012;
91. Field Report of Spectrum Engineering Services, Inc., dated October 29, 2008 pp. 1-3;
92. Report of HICAPS dated 19 July 2008, pp. 18-25;
93. Report of SKA dated October 1, 2008, pp. 1-15;
94. Report of SKA dated February 13, 2009;
95. Report from SKA dated July 30, 2009, pp. 1-2;
96. Report of Construction Science and Engineering, Inc., dated August 3, 2009 pp. 1-7;
97. Report of Steve Geiger dated January 8, 2012;
98. Report of Michael R. Parades;
99. Pictures from a Video of Unit A-31 owned by current Board President Robert Postiglione;
100. Pictures from a video of Unit B-54 owned by past Board President Leon C. Jennings, M. C.;
101. Pictures from a video of Unit B-27 owned by current Board member Doris Bray;
102. Pictures from a video of Unit A-51 owned by current Board member Jim C. Poag;

BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.

A handwritten signature in black ink that reads "Howell V. Bellamy, III". The signature is written in a cursive style with a large initial "H" and a stylized "III" at the end.

Howell V. Bellamy, III (S.C. Bar #66575)

hbellamyiii@bellamylaw.com

Howell V. Bellamy, Jr. (S.C. Bar #00642)

Bellamy, Rutenberg, Copeland,

Epps, Gravely, & Bowers, P. A.

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Myrtle Beach, S. C. 29577

843-448-2400 Telephone

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ATTORNEYS FOR RESPONDENTS

May 29, 2013

THE STATE OF SOUTH CAROLINA
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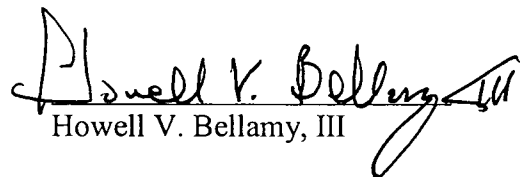
Cincinnati Insurance Casualty Insurance Company, Philadelphia Insurance Company, Zurich American Insurance Company, American and Marine Insurance Company, and Illinois National Insurance Company, Third-Party Defendants.

PROOF OF SERVICE OF RESPONDENTS' INITIAL BRIEF

The undersigned hereby certifies that he has this day served the Initial Brief of Respondents on the Appellant's counsel of record by mailing a copy of same in the United States Mail, postage pre-paid, addressed to their attorneys of record at the addresses listed below:

Mr. Carlyle Richardson Cromer
Turner Padget Graham & Laney, PA
P. O. Box 2116
Myrtle Beach, S.C. 29578

Mr. R. Wayne Byrd
Turner Padget Graham & Laney, PA
P. O. Box 2116
Myrtle Beach, S.C. 29578


Howell V. Bellamy, III

Myrtle Beach, S.C. 29577
May 29, 2013

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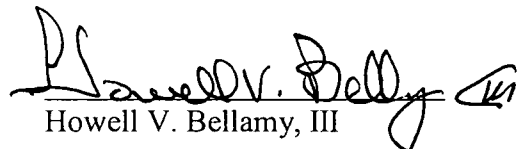
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PROOF OF SERVICE OF RESPONDENTS' DESIGNATION
OF MATTER TO BE INCLUDED IN THE RECORD ON
APPEAL

The undersigned hereby certifies that he has this day served the Respondents' Designation of Matter to be Included in the Record on Appeal on the Appellant's counsel of record by mailing a copy of same in the United States Mail, postage pre-paid, addressed to their attorneys of record at the addresses listed below:

Mr. Carlyle Richardson Cromer
Turner Padgett Graham & Laney, PA
P. O. Box 2116
Myrtle Beach, S.C. 29578

Mr. R. Wayne Byrd
Turner Padgett Graham & Laney, PA
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Howell V. Bellamy, III

Myrtle Beach, S.C. 29577
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