

STATE OF SOUTH CAROLINA  
COUNTY OF GEORGETOWN

IN THE COURT OF COMMON PLEAS  
FIFTEENTH JUDICIAL CIRCUIT  
C/A NO. 2021-CP-22-00927

Steven Michael Okun, as Personal )  
Representative of the Estate of Jane )  
Luanne Okun, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Pobuckra Properties, L.L.C. and Alliance )  
Commercial Property Management, Inc., )  
 )  
Defendants. )

NOTICE OF MOTION AND MOTION  
TO STRIKE DEFENDANTS'  
ANSWERS AND AFFIRMATIVE  
DEFENSES

**RECEIVED**  
**Jun 28 2023**  
**SC Court of Appeals**

YOU WILL PLEASE TAKE NOTICE the undersigned will move the court for an Order striking all of the defenses in the Answers filed by both Defendants to preclude and prohibit the Defendants from arguing liability and notice of this accident as a defense. The basis of this motion is that Plaintiff filed this action on November 11, 2021 along with a Motion for Injunctive Relief and to Preserve Evidence. A Consent Order was issued on January 11, 2022 whereby Defendants and Defendants' counsel agreed to allow Plaintiff and Plaintiff's expert to view, inspect, examine and/or test the footbridge and handrails where Plaintiff slipped, fell and died. The deposition of Defendants' property manager's representative took place on September 27, 2022 wherein Plaintiff learned that Defendants had lost the handrail after taking custody of it pursuant to the Consent Order.

The actions of the Defendants and/or their officers, agents and/or employees in losing crucial and vital evidence precludes them from arguing actual and/or constructive notice of a defect since Defendants have caused material evidence to be lost.



Wherefore, as a result of the violation of this Court's Consent Order, the Defendants' Answers should be struck, and it should not be allowed to present any defenses including actual notice.

WHEREFORE, the Plaintiff requests that court issue its order based on the fact that the Defendants have lost and/or engaged in spoliation of evidence and that Plaintiff is entitled to the relief requested.

KELAHER, CONNELL & CONNOR, P.C.

*s/ Gene M. Connell, Jr.*

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**Attorney for Plaintiff**

October 12, 2022  
Surfside Beach, South Carolina