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**Jun 28 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas R. Keith Kelly, Circuit Court Judge

Appellant Case No. 2022-001557  
Civil Action Case No. 2016-CP-42-01854

**Chandelle Property Owners Association, Respondent,**

v.

**James Douglas Armstrong, Jane Armstrong, Warren Johnson, Rhonda Johnson, John K. Payne, Ruth G. Payne, and Jane Van Wieren as Trustee of the Greer R.G. Irrevocable Property Trust dated October 25, 2006, and also all other persons unknown, claiming any right, title, estate, interest in or lien upon the real estate described in the complaint herein, Defendants,**

**and**

**James Douglas Armstrong, Jane Armstrong, Warren Johnson, Rhonda Johnson, John K. Payne, Ruth G. Payne, and Jane Van Wieren as Trustee of the Greer R.G. Irrevocable Property Trust dated October 25, 2006, Third-Party Plaintiffs,**

v.

**Billy J. Israel, Bruce R. Goldberg, Cindy R. Goldberg, and George Lynn Fleming in their personal and official capacities, Third-Party Defendants,**

**And**

**Kenneth L. Galloway and Molly C. Galloway, Third-Party Plaintiffs,**

v.

**Billy J. Israel, Bruce R. Goldberg, Cindy R. Goldberg, and George Lynn Fleming, in their personal Capacities, Third-Part Defendants,**

**Of whom James Douglas Armstrong, Jane Armstrong, Warren Johnson Rhonda Johnson, John K. Payne, Ruth G. Payne, and Jane Van Wieren as Trustee of the Greer R.G. Irrevocable Property Trust dated October 25, 2006, are the .....Appellants.**

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CONSENT AGREEMENT TO SUPPLEMENTATION OF THE RECORD ON APPEAL

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WHEREAS, it has come to the attention of the parties that two exhibits to the “Plaintiff’s Memorandum in Support of its Motion for Partial Summary Judgment (2016-CP-42-01854) Submitted September 9, 2022”, (R. pp. 362-1300) were inadvertently omitted from the Record on Appeal;

NOW THEREFORE, the parties, through their undersigned counsel, consent to the submission of a First Supplement to the Record on Appeal in the above captioned matter to add Exhibit 19 and Exhibit 24 from the “Plaintiff’s Memorandum in Support of its Motion for Partial Summary Judgment (2016-CP-42-01854) Submitted September 9, 2022.” It is agreed that these pages will be designated R. pp. 1454-1464 as marked and attached hereto.

WE CONSENT

**WENDELL L. HAWKINS, P.A.**

s/Wendell L. Hawkins  
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**Additional Attorneys of Record for  
Respondent**

June 27, 2023

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG

AMENDMENTS TO COVENANTS,  
CONDITIONS AND RESTRICTIONS  
OF CHANDELLE SUBDIVISION

WHEREAS, the covenants, conditions and restrictions of Chandelle Subdivision were recorded in Deed Book 67-A at page 583, Register of Deeds for Spartanburg County, South Carolina:

WHEREAS, the Board of Directors, as provided for in Article XII, has elected to amend said covenants, conditions and restrictions as well as the by-laws of the Chandelle Property Owner's Association as follows:

Declaration of Covenants, Conditions and Restrictions -- The following words are added after "Plat Book 158 page 840 in the last paragraph: Lot 32 and Lot 36 Section 4A plat recorded January 6, 2009 in plat Book 163 page 885: Lot 31 and Lot 35 Section 5 plat recorded October 13, 2009 in plat Book 164 page 709"; and the following words were added after "Plat Book 159 page 9" in the last paragraph: "Lot 55, Lot 56 and Lot 57 Section 8 plat recorded October 21, 2011 in plat Book 166 page 249..."

WITNESSES:

Stephen E. Berry  
[Signature]

~~HOA~~ CHANDELLE ESTATES HOA  
BOARD OF DIRECTORS  
By [Signature]  
By [Signature]

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

PROBATE

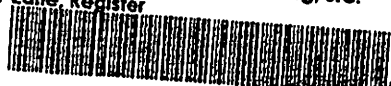
PERSONALLY appeared before me the undersigned witness named and made oath that (s) he was present and saw the within named BOARD OF DIRECTORS, seal and as their act and deed deliver the within Amendments, and that (s) he with the other witness subscribed above witnessed the execution thereof.

Stephen E. Berry

SWORN to before me this  
2<sup>nd</sup> day of November 2011.

[Signature]  
Notary Public for South Carolina  
My Commission Expires: 11-16-15

DEE-2011-38787  
Recorded 1 Pages on 11/2/2011 3:11:54 PM  
Recording Fee: \$10.00 Documentary Stamps: \$0.00  
Office of Register of Deeds, Spartanburg, S.C.  
Dorothy Earle, Register





# Garber

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1 STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
2 COUNTY OF SPARTANBURG ) CASE NO.: 2016-CP-42-01854  
3  
4 Chandelle Property Owners )  
5 Association, ) DEPOSITION OF  
6 Plaintiff, ) RUTH PAYNE  
7 vs. ) AUGUST 2, 2022  
8 James Douglas Armstrong, )  
9 Jane Armstrong, Kenneth L. )  
10 Galloway, Molly C. Galloway )  
11 Warren Johnson, Rhonda )  
12 Johnson, John K. Payne, )  
13 Ruth G. Payne, and Jane Van )  
14 Wieren as Trustee of the )  
15 Greer R.G. Irrevocable )  
16 Property Trust, dated October )  
17 25, 2006, and also all other )  
18 persons unknown, claiming any )  
19 right, title, estate, )  
20 interest in or lien upon the )  
21 real estate described in the )  
22 complaint herein, )  
23 Defendants. )  
24 \_\_\_\_\_ )  
25

1 Deposition on oral examination of RUTH PAYNE, reported  
2 by Susanna M. Amstutz, Court Reporter and Notary Public in  
3 and for the State of South Carolina; pursuant to Rule 30 of  
4 the South Carolina Rules of Civil Procedure; said  
5 deposition was taken at the offices of Wendell L. Hawkins,  
6 P.A., 310 The Parkway, Greer, South Carolina on Tuesday,  
7 the 2nd day of August, 2022; commencing at the hour of 9:05  
8 a.m.

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RUTH PAYNE

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APPEARANCES:

REPRESENTING THE PLAINTIFF:

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RUTH PAYNE

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RICHARD L. PATTON  
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(pattonlawfirmllc@gmail.com)

ALSO PRESENT:

- Diane Fanti
- Billy J. Israel
- George Lynn Fleming

VIA ZOOM:

- Greg Stett

1                   **Property Owners Association?**

2                   MR. HAWKINS:    Object to the form.

3                   You may answer the question.

4 BY MR. MCCABE:

5                   **Q.    You can answer.**

6                   A.    I guess.  I don't know.  Sometimes you're in.  
7                   Sometimes you're not.  I don't do anything with  
8                   them.

9                   **Q.    Well, have you ever attended a Chandelle Property**  
10                   **Owners Association meeting?**

11                   A.    Yes.

12                   **Q.    Have you ever voted in a Chandelle Property**  
13                   **Owners Association meeting?**

14                   A.    No.

15                   **Q.    Has your husband voted in a Chandelle Property**  
16                   **Owners Association meeting?**

17                   A.    I do not know.

18                   **Q.    Did your husband serve on the Architectural**  
19                   **Review Committee of the Chandelle Property Owners**  
20                   **Association?**

21                   A.    I don't know.

22                   **Q.    Would it surprise you that he served 15 years on**  
23                   **the Architectural- --**

24                   A.    I know he served on the board.

25                   **Q.    Okay.**

RUTH PAYNE

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1 A. I didn't know it was called Architectural  
2 whatever.

3 Q. You knew that he was involved in the  
4 Architectural --

5 A. Yes.

6 Q. Excuse me.

7 A. Yes.

8 Q. You knew he was involved with the Chandelle  
9 Property Owners Association?

10 A. Yes.

11 Q. And when I use, when I say "Association," you  
12 understand that I'll use that term to mean  
13 Chandelle Property Owners Association?

14 A. Yes.

15 Q. Okay. Do you own lots within the Chandelle  
16 subdivision?

17 A. I guess.

18 Q. Do you know?

19 A. Are you talking about the corner of Brockman and  
20 Air Park? Yes.

21 Q. Okay. Do you own any other property near there?

22 A. Near there?

23 Q. Yes, ma'am.

24 A. Yes

25 Q. And where is that located?

RUTH PAYNE

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1 A. At the end of Chandelle Ridge Drive.

2 Q. **Have you ever paid assessments to the**  
3 **Association?**

4 A. Yes.

5 Q. **And why did you pay assessments to the**  
6 **Asociation?**

7 A. Because it was run properly for the first 15  
8 years.

9 Q. **Why have you not made payment?**

10 A. Why should I pay a ransom so he can pay you?

11 Q. **And "he" --**

12 A. I don't think that's right.

13 Q. **And "he," you're referring to Mr. Israel?**

14 A. Yes.

15 Q. **I interrupted you. I'm sorry. I just wanted to**  
16 **make sure on the record that when you say "he,"**  
17 **it's clear who you were referring to. Can you**  
18 **provide an explanation as to why you discontinued**  
19 **paying the assessments levied by the Association?**

20 A. Well, when I refused to sign, giving him  
21 permission, saying it's okay for what he has  
22 done, what he is doing, and what he will be  
23 doing, when I refused to sign that paper, he sued  
24 me 'cause I didn't sign the paper, then he didn't  
25 tell nobody that he hired you, I guess, and so

- 1 A. Through friendship.
- 2 Q. **So through an aviation club or community?**
- 3 A. It was just a get-together.
- 4 Q. **Who introduced you to Mr. Stewart?**
- 5 A. I guess my husband.
- 6 Q. **How did you come to know Mr. Doug Cobb?**
- 7 A. Through the same.
- 8 Q. **Do you recall when you first met Mr. Cobb?**
- 9 A. No, I do not.
- 10 Q. **Did you meet Mr. Cobb and Mr. Stewart at the same**
- 11 **time?**
- 12 A. No.
- 13 Q. **How did you come to meet Ms. Marilyn Berry.**
- 14 A. Same time I met John Stewart in 1986.
- 15 Q. **Did Ms. Berry fly?**
- 16 A. What?
- 17 Q. **Did Ms. Berry fly?**
- 18 A. I think she did at one time.
- 19 Q. **Do you currently own an airplane?**
- 20 A. No.
- 21 Q. **Does your husband?**
- 22 A. No. He has Ultralights.
- 23 Q. **Are they -- do you have Ultralights on your**
- 24 **property at Chandelle?**
- 25 A. Yes.

1 Q. How many?

2 A. I don't know. It's more than one.

3 Q. Were you personally involved in the marketing of  
4 the Chandelle subdivision?

5 A. No.

6 Q. Did you ever assist with the website?

7 A. No.

8 Q. Have you -- did you ever receive any  
9 compensation, or any kind of payment for services  
10 provided to CFC, Chandelle Runway, or Mr. Cobb?

11 A. No.

12 Q. If I said that you own two pieces of -- two  
13 pieces of property in Chandelle subdivision, one  
14 is noted as lot 1 and one known as lot 51, do you  
15 know what I'm referring to?

16 A. No. I know lot 1.

17 Q. Ma'am?

18 A. I recognize we're lot 1 but lot 51 is not in  
19 Chandelle.

20 Q. Okay. Is it Chandelle subdivision? You  
21 understand there's subdivision plat versus  
22 Chandelle Property Owners Association? I'm  
23 asking about the subdivision. When you purchased  
24 lot 1, did you understand that when you purchased  
25 lot 1, that it was subject to the Declaration of