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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 theAppellants.

RECORD ON APPEAL FIRST SUPPLEMENT– VOLUME 5

WENDELL L. HAWKINS, P.A.

Wendell L. Hawkins (S.C. Bar #: 13583)
310 The Parkway Greer, SC 29650
(864) 848-9370 (Ph) (864) 848-9759 (Fax)
wlh@wlhawkinslawfirm.com

Attorney for Appellants

MCCABE, TROTTER & BEVERLY, P.C.

D. Ryan McCabe, Jr., Esq. (S.C. Bar#16977)
Ely O. Grote, Esq.(S.C. Bar # 75379)
4500 Fort Jackson Blvd., Ste 250
Columbia, SC 29202
Ryan.mccabe@mccabetrotter.com
Ely.grote@mccabetrotter.com

Attorneys for Respondent

CLARKSON, WALSH & COULTER, P.A.

James P. Walsh, Esq.(S.C. Bar# 15180)
John D. Harjenhausen, Esq.(S.C.Bar# 76194)
P.O. Box 6728
Greenville, SC 29606
jwalsh@clarcksonwalsh.com
jharjenhausen@clarksonwalsh.com

**Additional Attorneys of Record for
Respondent**

INDEX-FIRST SUPPLEMENT

I. ORDERS

Complex Case Order, filed 10/14/16	4-8
Order as to Complex Case Designation, Consolidation and Mediation, filed 4/5/17.....	9-14
Form 4 Order Staying Case Due to Bankruptcy, filed 9/13/19	15-17
Conflicting Order dated October 19, 2022 (The First Order)	18-22
Order on Appeal filed October 29, 2022	23-49
Form 4 Order, filed 10/31/22	50-52

II. PLEADINGS

Initial Summons and Complaint, filed 5/16/16 (no exhibit)	53-68
Amended Summons and Complaint, filed 6/2/16 (no exhibit)	69-85
Second Amended Summons and Complaint, filed 7/19/17 (no exhibit)	86-123
Answer, Counter-Claim and Third Party Complaint of Armstrongs, Johnsons, and Paynes, filed 8/15/17	124-136
Answer, Counter-Claim and Third Party Complaint of Jane Van Wieren as Trustee of the Greer R.G. Irrevocable Property Trust dated October 25, 2006, filed 11/15/17	137-149
Plaintiff's Reply to Counterclaims of Armstrongs, Johnsons, and Paynes, filed 8/30/17	150-159
Plaintiff's Reply to Counterclaims of Jane Van Wieren as Trustee of the Greer R.G. Irrevocable Property Trust dated October 25, 2006, filed 12/8/17	160-169
Notice of Bankruptcy – CSC Developers, LLC, filed 9/27/18	170-171
Notice of Bankruptcy – Chandelle Runway, LLC, filed 10/4/18	172-173

Notice of Bankruptcy Court Orders (including all exhibits thereto), filed 7/15/20	174-179
Third Amended Complaint (2016-CP-42-01854) filed November 3, 2020 (with Exhibits)	180-267
Appellants' Third Amended Answer, Counter-Claims, and Third Party Complaint, filed 11/24/20	268-286
Plaintiff's Reply to Appellants' Counterclaims, filed 12/7/20	287-299
Plaintiff's and Third-Party Defendants' Motion to Dismiss or Alternatively for Partial Summary Judgment Regarding Counterclaims and Third-Party Claims, filed 7/26/22	300-302
Memorandum in Support of Plaintiff's and Third-Party Defendants' Motion to Dismiss or Alternatively for Partial Summary Judgment Regarding Counterclaims and Third-Party Claims, filed 7/26/22	303-318
Plaintiff's Motion for Partial Summary Judgment against Appellants, filed 8/19/22	319-323
Appellants' Memorandum in Opposition to Plaintiff's Motion for Partial Summary Judgment, filed 9/9/22	324-339
Appellants' Memorandum in Opposition to Plaintiff's and Third- Party Defendants' Motion to Dismiss or Alternatively for Partial Summary Judgment Regarding Counterclaims and Third-Party Claims, filed 9/9/22.....	340-361
Plaintiff's Memorandum in Support of its Motion for Partial Summary Judgment Against Appellants (including all exhibits (including those filed as continuations of exhibits)), filed 9/9/22.....	362-1300
Memorandum in Opposition to Proposed Order on Partial Motion for Summary Judgment (2106-CP-42-01854) submitted October 25, 2022	1301-1305
Notice of Appeal, filed 11/1/22	1306-1307

III. TRANSCRIPTS

Transcript of 9/13/22 motions hearing (all pages)	1308-1377
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Deposition of Billy Israel (pp. 30, 94, 102-104, 109-111)	1378-1385
Deposition of Jeff Cooper (p. 29)	1386

IV. OTHER

Joint Affidavit of James Douglas Armstrong, et. al., (2106-CP-42-01854) filed September 9, 2022 with Exhibits.....	1387-1405
Plaintiff’s Proposed Order on Motion for Partial Summary Judgment submitted October 10, 2022	1406-1437
Email Correspondence with Trial Court regarding Proposed Order on Plaintiff’s Motion for Partial Summary Judgment (10/25/22)	1438-1443
10/26/22 Email from Ely Grote to the Court responding to Appellants’ Memorandum in Opposition to Plaintiff’s Proposed Order Granting Partial Summary Judgment	1444-1451

Certification of Counsel.....	1452-1453
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V. FIRST SUPPLEMENT

EXHIBIT 19 to Plaintiff’s Memorandum in Support of its Motion for Partial Summary Judgment Against Appellants (including all exhibits (including those filed as continuations of exhibits)), filed 9/9/22.....	1454
EXHIBIT 24 to Plaintiff’s Memorandum in Support of its Motion for Partial Summary Judgment Against Appellants (including all exhibits (including those filed as continuations of exhibits)), filed 9/9/22.....	1455-1464

Supplemental Certification of Counsel	1465-1466
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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

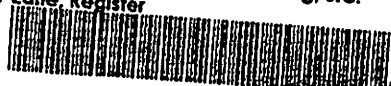
PERSONALLY appeared before me the undersigned witness named and made oath that (s) he was present and saw the within named BOARD OF DIRECTORS, seal and as their act and deed deliver the within Amendments, and that (s) he with the other witness subscribed above witnessed the execution thereof.

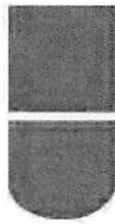
Stephen E. Berry

SWORN to before me this
2nd 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

Reporting Service
& Videoconferencing

1226 Pickens Street
Columbia, South Carolina 29201
info@garberreporting.com
Telephone: (803) 256-4500 | Fax (803) 256-1999

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:

D. RYAN MCCABE, ESQ.
McCabe Trotter & Beverly, P.C.
4500 Fort Jackson Boulevard, Suite 250
Columbia, South Carolina 29209
(ryan.mccabe@mccabetrotter.com)

REPRESENTING THE DEFENDANT:

WENDELL L. HAWKINS, ESQ.
Wendell L. Hawkins, P.A.
310 The Parkway
Greer, South Carolina 29650
(wlh@wlhawkinslawfirm.com)

JOHN D. SOLAR, ESQ.
and
JOHN HARJEHAUSEN, ESQ.
Clarkson Walsh Coulter
Post Office Box 6728 (29606)
1164A Woodruff Road
Greenville, South Carolina 29607
(jsolar@clarksonwalsh.com)
(jharjehausen@clarksonwalsh.com)

RUTH PAYNE

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RICHARD L. PATTON
Patton Law Firm
819 E. North Street, Suite 234
Greenville, South Carolina 29601
(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

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APPEAL FROM SPARTANBURG COUNTY
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Appellant Case No. 2022-001557
Civil Action Case No. 2016-CP-42-01854

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SUPPLEMENTAL CERTIFICATE OF COUNSEL

SC Court of Appeals

The undersigned certifies that the Record on Appeal and Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

WENDELL L. HAWKINS, P.A.

s/ Wendell L. Hawkins

Wendell L. Hawkins (S.C. Bar #: 13583)

310 The Parkway Greer, SC 29650

(864) 848-9370 (Ph) (864) 848-9759 (Fax)

wlh@wlhawkinslawfirm.com

Attorney for Appellants

June 28, 2023
Greer, South Carolina