

RECEIVED

Jun 30 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.

CONSENT AGREEMENT TO SECOND SUPPLEMENTATION OF THE RECORD ON
APPEAL

WHEREAS, it has come to the attention of the parties that four (4) documents referenced in the Appellant's Reply Brief were omitted from the Record on Appeal;

NOW THEREFORE, the parties, through their undersigned counsel, consent to the submission of a Second Supplement to the Record on Appeal in the above captioned matter to add the following documents referenced in the Appellant's Reply Brief:

- (1) Motion to Compel Filed August 18, 2021;
- (2) Motion for Sanctions filed October 25, 2021;
- (3) Motion to Compel filed February 10, 2022; and
- (4) Order on Motion to Compel filed July 22, 2023.

It is agreed that these pages will be designated R. pp. 1467-1497 as marked and attached hereto.

WE CONSENT

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

MCCABE, TROTTER & BEVERLY, P.C.

s/Ely Grote
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.

s/John Harjenhausen
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**

June 30, 2023

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
C.A. No. 2016-CP-42-01854

Chandelle Property Owners Association,)

Plaintiff,)

vs.)

Charlie M. Allison, Janice H. Allison,)
James Douglas Armstrong and Jane)
Armstrong, Emma Jean Brockman as the)
Personal representative of the Estate of)
James P. Brockman, Sr., 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.)

James Douglas Armstrong and Jane)
Armstrong, Warren Johnson, Rhonda)
Johnson, John K. Payne and Ruth G.)
Payne)

Third Party Plaintiffs)

vs)

Billy J. Israel, Bruce R. Goldberg, Cindy)
R. Goldberg and George Lynn Fleming in)
their personal and official capacities,)

Third Party Defendants

**DEFENDANT JANE VAN WIENEN AS
TRUSTEE OF THE GREER R.G.
IRREVOCABLE PROPERTY TRUST
DATED OCTOBER 25, 2006, JAMES
DOUGLAS ARMSTRONG, JANE
ARMSTRONG, WARREN JOHNSON,
RHONDA JOHNSON, JOHN K. PAYNE AND
RUTH PAYNE’S MOTION TO COMPEL**

**TO: CHANDELLE PROPERTY OWNERS ASSOCIATION, BY AND THOROUGH
ITS ATTORNEY RYAN MCCABE, ESQ. AND ELY GROTE, ESQ.:**

YOU WILL PLEASE TAKE NOTICE that the undersigned, as attorney for the Defendants, 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 (collectively, "Defendants") will appear on the tenth (10) day after service hereof, or as soon after counsel may be heard, before the presiding Judge and move for a Motion to Compel Discovery of the Plaintiff, in the above-captioned matter:

YOU WILL FURTHER TAKE NOTICE that the Defendants hereby move upon this Court to issue an Order to Compel Discovery and order appropriate sanctions on said Defendant for the following reasons to wit:

1. Plaintiff was served with Defendant's Third Supplemental Set of Interrogatories and Requests for Production on or about March 16, 2021.
2. Defendants, through their counsel, have since requested through telephone and electronic mail messages that Plaintiff respond to Defendant's discovery requests.
3. To date, no response has been received.

The undersigned hereby certifies that, pursuant to SCRCP, Rule 11, he attempted to resolve the above matter with opposing counsel prior to the filing of the herein Motion.

Respectfully submitted,

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

August 18, 2021
Greer, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
C.A. No. 2016-CP-42-01854

Chandelle Property Owners Association,)

Plaintiff,)

vs.)

Charlie M. Allison, Janice H. Allison,)
James Douglas Armstrong and Jane)
Armstrong, Emma Jean Brockman as the)
Personal representative of the Estate of)
James P. Brockman, Sr., 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.)

James Douglas Armstrong and Jane)
Armstrong, Warren Johnson, Rhonda)
Johnson, John K. Payne and Ruth G.)
Payne)

Third Party Plaintiffs)

vs)

Billy J. Israel, Bruce R. Goldberg, Cindy)
R. Goldberg and George Lynn Fleming in)
their personal and official capacities,)

Third Party Defendants

**DEFENDANT JANE VAN WIENEN AS
TRUSTEE OF THE GREER R.G.
IRREVOCABLE PROPERTY TRUST
DATED OCTOBER 25, 2006, JAMES
DOUGLAS ARMSTRONG, JANE
ARMSTRONG, WARREN JOHNSON,
RHONDA JOHNSON, JOHN K. PAYNE AND
RUTH PAYNE’S MOTION FOR
SANCTIONS**

**TO: CHANDELLE PROPERTY OWNERS ASSOCIATION, BY AND THOROUGH
ITS ATTORNEY RYAN MCCABE, ESQ. AND ELY GROTE, ESQ.:**

YOU WILL PLEASE TAKE NOTICE that the undersigned, as attorney for the Defendants, 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 (collectively, "Defendants") will appear on the tenth (10) day after service hereof, or as soon after counsel may be heard, before the presiding Judge and move for Sanctions against the Plaintiff, in the above-captioned matter.

YOU WILL FURTHER TAKE NOTICE that the Defendants hereby move upon this Court to issue an Order of Sanctions against Plaintiff for the following reasons to wit:

1. The Plaintiff signed an Agreement to Mediate on April 24th, 2017 which required confidentiality of the Mediation proceedings. Furthermore, the Rules of ADR, Rule 8(a) specifically states, "[a]ny mediation communication disclosed during a mediation, including, but not limited to, oral, documentary, or electronic information, shall be confidential, and shall not be divulged *by anyone in attendance at the mediation* or participating in the mediation, except as permitted under this rule or by statute. (emphasis added).

2. Mediation was reconvened on October 20, 2021 which was continued. Immediately following the Mediation, the Plaintiffs disclosed discussions regarding the proceedings of the mediation to all members of the Association through the correspondence attached hereto as "**Exhibit A**" (the "Correspondence").

3. The widely distributed Correspondence was a disclosure of the proceedings of the Mediation to parties and individuals not present and violates the Mediation Agreement along with the provisions of S.C. Rules of ADR, Rule 8(a) by a person or persons in attendance to a person or persons not in attendance.

4. As such, the Defendants hereby move upon this Court to issue sanctions against Plaintiff which are appropriate for the violative disclosures.

The undersigned hereby certifies that, pursuant to SCRCP, Rule 11, he attempted to resolve the above matter with opposing counsel prior to the filing of the herein Motion or it would not serve any useful purpose.

Respectfully submitted,

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

October 25, 2021
Greer, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
C.A. No. 2016-CP-42-01854

Chandelle Property Owners Association,)

Plaintiff,)

vs.)

Charlie M. Allison, Janice H. Allison,)
James Douglas Armstrong and Jane)
Armstrong, Emma Jean Brockman as the)
Personal representative of the Estate of)
James P. Brockman, Sr., 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.)

James Douglas Armstrong and Jane)
Armstrong, Warren Johnson, Rhonda)
Johnson, John K. Payne and Ruth G.)
Payne)

Third Party Plaintiffs)

vs)

Billy J. Israel, Bruce R. Goldberg, Cindy)
R. Goldberg and George Lynn Fleming in)
their personal and official capacities,)

Third Party Defendants

**DEFENDANT JANE VAN WIENEN AS
TRUSTEE OF THE GREER R.G.
IRREVOCABLE PROPERTY TRUST
DATED OCTOBER 25, 2006, JAMES
DOUGLAS ARMSTRONG, JANE
ARMSTRONG, WARREN JOHNSON,
RHONDA JOHNSON, JOHN K. PAYNE AND
RUTH PAYNE’S MOTION TO COMPEL**

**TO: CHANDELLE PROPERTY OWNERS ASSOCIATION, BY AND THOROUGH
ITS ATTORNEY RYAN MCCABE, ESQ. AND ELY GROTE, ESQ.:**

YOU WILL PLEASE TAKE NOTICE that the undersigned, as attorney for the Defendants, 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 (collectively, "Defendants") will appear on the tenth (10) day after service hereof, or as soon after counsel may be heard, before the presiding Judge and move for a Motion to Compel Discovery of the Plaintiff, in the above-captioned matter:

YOU WILL FURTHER TAKE NOTICE that the Defendants hereby move upon this Court to issue an Order to Compel Discovery and order appropriate sanctions on said Defendant for the following reasons to wit:

1. The Honorable Keith R. Kelly ordered the Plaintiff to produce "the invoices for such debts for which defendants or being assessed." ("**Exhibit A**"; the "Order"). Judge Kelly's law clerk, Sarah Shugars, explained in her email to counsel, however, that the Order did not require "production of all invoices supporting every single expense that Chandelle has ever incurred." ("**Exhibit B**"; the "Email"). Plaintiffs apparently rely on the portion of Ms. Shugars' email that not "every invoice ever incurred had to be produced" to shield Plaintiff from the production of invoices supporting its request for reimbursement or assessments invoiced to pay for attorney's fees which are, as of October 1, 2021, Two Hundred Seventy-Five Thousand Toe Hundred Thirty Seven and 00/100 Dollars (\$ 275,237.00) between these Defendants alone. ("**Exhibit C**"; grid of Attorney's fees due/Invoiced to POA) & ("**Exhibit D**"; Email of Ely Grote).

2. Defendants, through their counsel, have since requested through telephone and electronic mail messages that Plaintiff comply with the Order and Plaintiff represents that it has. Defendants disagree.

3. To date, no other response has been received.

The undersigned hereby certifies that, pursuant to SCRCP, Rule 11, he attempted to resolve the above matter with opposing counsel prior to the filing of the herein Motion.

Respectfully submitted,

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

February 10th, 2022
Greer, South Carolina

EXHIBIT A
THE ORDER

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	SEVENTH JUDICIAL CIRCUIT
	)	C.A. No. 2016-CP-42-01854
Chandelle Property Owners Association,)	
)	
)	
Plaintiff,	)	DEFENDANT JANE VAN WIEREN AS
	)	TRUSTEE OF THE GREER R.G.
vs.	)	IRREVOCABLE PROPERTY TRUST
	)	DATED OCTOBER 25, 2006, JAMES
	)	DOUGLAS ARMSTRONG, JANE
	)	ARMSTRONG, WARREN JOHNSON,
	)	RHONDA JOHNSON, JOHN K. PAYNE AND
	)	RUTH PAYNE'S MOTION TO COMPEL
)	
Charlie M. Allison, Janice H. Allison, James Douglas Armstrong and Jane Armstrong, Emma Jean Brockman as the Personal representative of the Estate of James P. Brockman, Sr., 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.	)	ORDER
)	
Defendants.)	
)	
James Douglas Armstrong and Jane Armstrong, Warren Johnson, Rhonda Johnson, John K. Payne and Ruth G. Payne)	
)	
Third Party Plaintiffs)	
)	
vs)	
)	
Billy J. Israel, Bruce R. Goldberg, Cindy R. Goldberg and George Lynn Fleming in their personal and official capacities,)	
)	
Third Party Defendants)	

THIS MATTER comes before the Court upon Defendant's Motion to Compel Plaintiff's responses to the same. While there was a reply to the discovery requests just before the hearing, at the time of the hearing, the Defendants requested the Court to examine the responses for sufficiency. After a review of the documents provided and the hearing of oral arguments on the various issues raised, the Court finds and rules as follows:

With respect to the Responses to Interrogatories and Requests to Produce, the Court orders the Plaintiffs to comply with the following:

RESPONSES TO INTERROGATORIES

1. With respect to the responses to Interrogatory 1(d), the Court orders that Chandelle answer the Interrogatory with exacting specificity, i.e. which specific section of the restrictive covenant and/or by law and which section(s) of the South Carolina Non-Profit Corporation Act Chandelle relies on.
2. With respect to Chandelle's response to Interrogatory 1.(e), the Court finds Chandelle has sufficiently answered.
3. With respect to Interrogatory 1.(f), Chandelle shall clarify "other charges due to Plaintiff" with exacting specificity and supporting documentation, including invoices for such charges due.

RESPONSES TO REQUESTS TO PRODUCE

1. With respect to Defendants' claim that some documents are not germane to Request to Produce Number 2, the documents provided are too voluminous and Chandelle shall provide pinpoint page numbers to invoices, notices or other documents, the amounts of debt owed, the dates incurred and the purpose of the debts with exacting specificity.

2. With respect to Defendants' claim that no invoices to support debts have been produced pursuant to Request to Produce Number 3, Chandelle shall provide the invoices for such debts for which the Defendants are being assessed or pinpoint the page numbers of such documents/invoices previously provided.

3. With respect to Chandelle's responses to Request to Produce Number 5, the Court finds such documents are protected by the attorney-client privilege.

4. With respect to Defendants' claim that some documents are not germane to Request to Produce number 6, the documents provided are too voluminous and Chandelle shall pinpoint page numbers to the copy of voting calls for the Association with exacting specificity.

IT IS SO ORDERED!

JUDGE'S SIGNATURE PAGE TO FOLLOW

EXHIBIT B
EMAIL OF SARAH SHUGARS

Wendell Hawkins

From: Wendell Hawkins
Sent: Monday, January 10, 2022 9:54 AM
To: Kelly, R. Keith Law Clerk (Sarah Shugars)
Subject: Fwd: Chandelle Property Owners Association v. Armstrong, et al (2016-CP-42-01854)
Attachments: Chandelle - Order on Motion to Compel.pdf

Sarah:

I don't see where this order was ever filed???

Get [Outlook for iOS](#)

From: Kelly, R. Keith Law Clerk (Sarah Shugars) <kkellylc@sccourts.org>
Sent: Wednesday, November 10, 2021 12:15:28 PM
To: Ely Grote <Ely.Grote@mccabetrotter.com>; Wendell Hawkins <wlh@wlhawkinslawfirm.com>; John Harjehausen <jharjehausen@clarksonwalsh.com>; Paul Hammack <paul@hammacklawfirm.com>; pattonlawfirmllc@gmail.com <pattonlawfirmllc@gmail.com>
Cc: Deanne Peele <Deanne.Peele@mccabetrotter.com>; Alex MacClenahan <alex@macclenahanlaw.com>; Ryan McCabe <Ryan.McCabe@mccabetrotter.com>
Subject: Chandelle Property Owners Association v. Armstrong, et al (2016-CP-42-01854)

Good afternoon,

Judge Kelly has read the proposed order and the emails exchanged pertaining to the order language. Please find attached an order approved by Judge Kelly.

It was an error in the instructions for Requests to Produce number 6 to include language about debt and invoices. Thank you for pointing that out. It has been corrected and now refers to the voting calls.

As for Request to Produce number 3, Judge Kelly approves of the language that was proposed. The ruling compels Chandelle POA to produce invoices sent by Chandelle POA to Mr. Hawkins' clients that support the debts claimed to be owed. It does not require production of all invoices supporting every single expense that Chandelle POA has ever incurred, and he does not believe the language implies that this is required.

Please e-file the attached order for Judge Kelly's signature.

Best,

Sarah D. Shugars

Law Clerk to the Honorable R. Keith Kelly

125 E. Floyd Baker Blvd.

Gaffney, South Carolina 29340

(864) 596-2400

From: Ely Grote <Ely.Grote@mccabetrotter.com>
Sent: Tuesday, October 26, 2021 12:35 PM
To: Wendell Hawkins <wlh@wlhawkinslawfirm.com>; John Harjehausen <jharjehausen@clarksonwalsh.com>; Kelly, R. Keith Law Clerk (Sarah Shugars) <kkellylc@sccourts.org>; Paul Hammack <paul@hammacklawfirm.com>; pattonlawfirmllc@gmail.com
Cc: Deanne Peele <Deanne.Peele@mccabetrotter.com>; Alex MacClenahan <alex@macclenahanlaw.com>; Ryan

McCabe <Ryan.McCabe@mccabetrotter.com>

Subject: RE: Chandelle Property Owners Association v. Armstrong, et al (2016-CP-42-1854)

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Ms. Shugars and Mr. Hawkins,

I have had a chance to review the proposed order and I would offer the following feedback for consideration by the Court (in addition to Mr. Harjehausen's comment below):

1. Request for Production #6.

This request states "A copy of all voting calls for the Association along with the results or outcomes of such votes." The court's instructions for the order state: "Documents are voluminous. Provide pinpoint page numbers to the invoice, notice or other document, the amount of the debt, date incurred and its purpose with exacting specificity." I agree that Mr. Hawkins' proposed order tracks these instructions; however, I am wondering if there was potential typo or potential clerical error in these instructions, as Request for Production #6 deals with voting calls and not the amount of the debt asserted against Mr. Hawkins' clients.

2. Request for Production #3.

I would respectfully request clarification from the Court, if possible, with respect to the Court's ruling concerning Request for Production #3. Request for Production #3 requests "A copy of any supporting invoices for such debts owed." The Court's instructions regarding its ruling are as follows: "Provide the invoices or pinpoint page number if previously provided." I would respectfully request clarification on what "invoices" are being ordered to be produced. In responding to this request for production, I interpreted this request to mean the invoices/billing statements sent by the Plaintiff, Chandelle Property Owners Association, to Mr. Hawkins' clients, which are the invoices that support the amounts that Chandelle POA is claiming are owed by Mr. Hawkins' clients, i.e., supporting the debts claimed to be owed by Mr. Hawkins' clients to Chandelle POA. However, the proposed order prepared by Mr. Hawkins could potentially be interpreted to suggest that the Chandelle POA must produce all invoices supporting every single expense that the Chandelle POA has ever incurred, at least dating back to the date of debts that Chandelle POA asserts are owed by Mr. Hawkins clients. Therefore, I would respectfully request clarification as to the scope or meaning the Court's ruling on that issue, if possible. If the intent is to require Chandelle POA to produce every invoice received by the Chandelle POA documenting every expense incurred by the Chandelle POA (to the extent it has them), then I, on behalf of Chandelle POA, would respectfully request an opportunity to brief the issues that may be involved in such a production. I would note that we, as counsel for Chandelle POA, were never provided with any notice or itemization of the claimed deficiencies with these discovery responses before the hearing, and thus did not have an opportunity to brief any of issues involved. We believe that production of invoices documenting every expense incurred by Chandelle POA would present several legal issues that would warrant further briefing. For example, Chandelle POA has incurred legal fees, some relating to this matter, and some not. If required to be produced, would individual time entries be required to be produced or just a summary statement of the total amounts invoiced? If individual time entries are required to be produced, we believe, at a minimum, that they would need to be reviewed for privilege, but even then, production of individual time entries could still provide significant insight into Chandelle POA's counsel's strategies, which could unfairly or unduly prejudice Chandelle POA in this action. Further, to perform such a review, we believe that it would be a time intensive task, and thus a burdensome and expensive endeavor, which we believe should be weighed against the needs of the case and the potential purposes or relevance of this information. I am informed by our bookkeeper that our firm's billing statements alone for various Chandelle POA matters are over 430 pages (however, some of this may predate the date of the debt being claimed against Mr. Hawkins' clients), and this would not include invoicing from other firms, such as Rogers Townsend law firm, who was engaged by Chandelle POA regarding the developer's bankruptcy matter. I don't mean to delve too far into these issues at this time, but would simply respectfully request clarification from the Court as to the scope/intent of its ruling with respect to Request for Production #3, and if the intent is to require production of all invoices documenting expenses incurred by Chandelle POA (rather than just

Chandelle POA's invoices/billing statements sent to Mr. Hawkins' clients), that the parties be given an opportunity to brief that matter.

Ely O. Grote
Shareholder
McCabe, Trotter & Beverly, P.C.
4500 Fort Jackson Boulevard
Suite 250
Columbia, SC 29209
Main: 803-724-5000
Direct: 803-724-5018
Fax: 803-724-5001
Email: ely.grote@mccabetrotter.com



McCABE, TROTTER & BEVERLY, P.C.
COMMUNITY ASSOCIATION AND CONSTRUCTION LAW

PLEASE NOTE THAT OUR MAILING ADDRESS HAS CHANGED! OUR MAILING ADDRESS IS 4500 FORT JACKSON BOULEVARD, SUITE 250, COLUMBIA, SC 29209.

From: Wendell Hawkins <wlh@wlhawkinslawfirm.com>
Sent: Monday, October 25, 2021 1:26 PM
To: John Harjehausen <jharjehausen@clarksonwalsh.com>; Kelly, R. Keith Law Clerk (Sarah Shugars) <kkellylc@sccourts.org>; Ely Grote <Ely.Grote@mccabetrotter.com>; Paul Hammack <paul@hammacklawfirm.com>; pattonlawfirmllc@gmail.com
Cc: Deanne Peele <Deanne.Peele@mccabetrotter.com>; Alex MacClenahan <alex@macclenahanlaw.com>; Ryan McCabe <Ryan.McCabe@mccabetrotter.com>
Subject: RE: Chandelle Property Owners Association v. Armstrong, et al (2016-CP-42-1854)

You are correct. I will do that.

PLEASE NOTE THAT EFFECTIVE MARCH 1, 2021 OUR NEW ADDRESS WILL BE 310 The Parkway Greer, SC 29650

Very Truly Yours,
Wendell L. Hawkins, Esq.

NOTE: FOR REAL ESTATE CLOSINGS, FOR ANY AMOUNTS OVER \$1,000.00 WE ONLY ACCEPT WIRES (NO ACH'S), AMOUNTS UNDER \$1,000.00 REQUIRE CERTIFIED CHECKS. CAUTION: FRAUDULET ACTORS HAVE SPOOFED OUT EMAIL ACCOUNTS BEFORE. CALL OUR OFFICE AT 864-848-9370 (ONLY) TO ORALLY VERIFY WIRING INSTRUCTIONS PRIOR TO WIRING.

Wendell L. Hawkins, PA
310 The Parkway
Greer, SC 29650
(864)848-9370(P) (864)848-9759(F)
web: www.wlhawkinslawfirm.com

116 E. Earle St.

Anderson, SC 29621

(864)332-0881(P) (864)332-0882(F)

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From: John Harjehausen <jharjehausen@clarksonwalsh.com>

Sent: Monday, October 25, 2021 12:29 PM

To: Wendell Hawkins <wlh@wlhawkinslawfirm.com>; Kelly, R. Keith Law Clerk (Sarah Shugars) <kkellylc@sccourts.org>; Ely Grote <Ely.Grote@mccabetrotter.com>; Paul Hammack <paul@hammacklawfirm.com>; pattonlawfirmllc@gmail.com

Cc: Deanne Peele <Deanne.Peele@mccabetrotter.com>; Alex MacClenahan <alex@macclenahanlaw.com>; Ryan McCabe <Ryan.McCabe@mccabetrotter.com>

Subject: RE: Chandelle Property Owners Association v. Armstrong, et al (2016-CP-42-1854)

Wendell:

I would ask that you remove the reference in the proposed order to the "Third-Party Defendants." The motion filed was a "Motion to Compel Discovery of the Plaintiff, in the above-captioned matter." The motion did not reference the third-party defendants. I am not aware of a motion pertaining to the third-party defendants or Judge Kelley issuing any sort of ruling that applied to any parties other than the Chandelle Property Owners Association. Regards,

John

From: Wendell Hawkins <wlh@wlhawkinslawfirm.com>

Sent: Monday, October 25, 2021 12:16 PM

To: Kelly, R. Keith Law Clerk (Sarah Shugars) <kkellylc@sccourts.org>; Ely Grote <Ely.Grote@mccabetrotter.com>; Paul Hammack <paul@hammacklawfirm.com>; pattonlawfirmllc@gmail.com; John Harjehausen <jharjehausen@clarksonwalsh.com>

Cc: Deanne Peele <Deanne.Peele@mccabetrotter.com>; Alex MacClenahan <alex@macclenahanlaw.com>; Ryan McCabe <Ryan.McCabe@mccabetrotter.com>

Subject: RE: Chandelle Property Owners Association v. Armstrong, et al (2016-CP-42-1854)

Forgot the Order.

PLEASE NOTE THAT EFFECTIVE MARCH 1, 2021 OUR NEW ADDRESS WILL BE 310 The Parkway Greer, SC 29650

Very Truly Yours,

Wendell L. Hawkins, Esq.

NOTE: FOR REAL ESTATE CLOSINGS, FOR ANY AMOUNTS OVER \$1,000.00 WE ONLY ACCEPT WIRES (NO ACH'S), AMOUNTS UNDER \$1,000.00 REQUIRE CERTIFIED CHECKS. CAUTION: FRAUDULET ACTORS HAVE SPOOFED OUT EMAIL ACCOUNTS BEFORE. CALL OUR OFFICE AT 864-848-9370 (ONLY) TO ORALLY VERIFY WIRING INSTRUCTIONS PRIOR TO WIRING.

Wendell L. Hawkins, PA

310 The Parkway

Greer, SC 29650

(864)848-9370(P) (864)848-9759(F)

web: www.wlhawkinslawfirm.com

116 E. Earle St.
Anderson, SC 29621
(864)332-0881(P) (864)332-0882(F)

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From: Kelly, R. Keith Law Clerk (Sarah Shugars) <kkellylc@sccourts.org>
Sent: Monday, October 4, 2021 4:53 PM
To: Ely Grote <Ely.Grote@mccabetrotter.com>; Paul Hammack <paul@hammacklawfirm.com>; pattonlawfirmllc@gmail.com; Wendell Hawkins <wlh@wlhawkinslawfirm.com>; John Harjehausen <jharjehausen@clarksonwalsh.com>
Cc: Deanne Peele <Deanne.Peele@mccabetrotter.com>; Alex MacClenahan <alex@macclenahanlaw.com>; Ryan McCabe <Ryan.McCabe@mccabetrotter.com>
Subject: RE: Chandelle Property Owners Association v. Armstrong, et al (2016-CP-42-1854)

Good afternoon,

Would 2:30pm on Wednesday the 6th work for everyone?

Sarah D. Shugars
Law Clerk to the Honorable R. Keith Kelly
125 E. Floyd Baker Blvd.
Gaffney, South Carolina 29340
(864) 596-2400

From: Ely Grote <Ely.Grote@mccabetrotter.com>
Sent: Friday, October 1, 2021 12:06 PM
To: Paul Hammack <paul@hammacklawfirm.com>; pattonlawfirmllc@gmail.com; Wendell Hawkins <wlh@wlhawkinslawfirm.com>; John Harjehausen <jharjehausen@clarksonwalsh.com>
Cc: Deanne Peele <Deanne.Peele@mccabetrotter.com>; Alex MacClenahan <alex@macclenahanlaw.com>; Kelly, R. Keith Secretary (Christine B. Thomas) <kkellysc@sccourts.org>; Kelly, R. Keith Law Clerk (Sarah Shugars) <kkellylc@sccourts.org>; Ryan McCabe <Ryan.McCabe@mccabetrotter.com>
Subject: Chandelle Property Owners Association v. Armstrong, et al (2016-CP-42-1854)

*** **EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

All,

At today's motion hearing, Judge Kelly indicated that he would like to have a Webex conference with counsel next week, either Wednesday, Thursday, or Friday. John Harjehausen has indicated that he is not available on Friday, so we would be looking at either Wednesday or Thursday. Please let me know if either or both of these days would work for you. Also, please let me know if there are any specific times that work or don't work on those days. Thanks.

Ely O. Grote
Shareholder
McCabe, Trotter & Beverly, P.C.
4500 Fort Jackson Boulevard
Suite 250
Columbia, SC 29209
Main: 803-724-5000
Direct: 803-724-5018
Fax: 803-724-5001
Email: ely.grote@mccabetrotter.com



McCABE, TROTTER & BEVERLY, P.C.
COMMUNITY ASSOCIATION AND CONSTRUCTION LAW

PLEASE NOTE THAT OUR MAILING ADDRESS HAS CHANGED! OUR MAILING ADDRESS IS 4500 FORT JACKSON BOULEVARD, SUITE 250, COLUMBIA, SC 29209.

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**EXHIBIT C**  
**GRID OF ATTORNEY'S FEES DUE**

*Total Ass*  
*Total Ass* *Legal* + *2022*

| DATE             | LOT                                  | OWNER     | 2016            | 2017             | 2018             | 2019             | 2020             | 2021             |           | Total Assess | LEGAL             | TOTAL             |
|------------------|--------------------------------------|-----------|-----------------|------------------|------------------|------------------|------------------|------------------|-----------|--------------|-------------------|-------------------|
| 10/01/21         | Lot 1                                | Payne     | 0.00            | 2,728.00         | 5,516.00         | 8,490.00         | 6,775.00         | 2,346.50         | Payne     | 25,855.50    | 31,026.60         | 33,026.60         |
| 10/01/21         | Lot 23                               | Galloway  | 1,456.00        | 2,728.00         | 5,516.00         | 8,490.00         | 6,775.00         | 2,346.50         | Galloway  | 27,311.50    | 57,773.80         | 57,773.80         |
| 10/01/21         | Lot 28/29 original<br>30/34 combined | Johnson   | 1,456.00        | 2,728.00         | 5,516.00         | 8,490.00         | 6,775.00         | 2,346.50         | Johnson   | 29,303.50    | 35,164.20         | 37,164.20         |
| 10/01/21         | Lot 30 before combination<br>10/2017 | Johnson   | 996.00          | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             |           |              |                   |                   |
| 10/01/21         | Lot 34 before<br>combination 10/2017 | Johnson   | 996.00          | 0.00             | 0.00             | 0.00             | 0.00             | 0.00             |           |              |                   |                   |
| 10/01/21         | Lot 33/37 combined<br>32/36 11/2017  | Graham    | 1,456.00        | 2,728.00         | 5,516.00         | 8,490.00         | 6,775.00         | 2,346.50         | Graham    | 66,016.00    | 79,219.20         | 83,219.20         |
| 10/01/21         | Lot 31/35 comb<br>12/11//2017        | Graham    | 0.00            | 0.00             | 5,516.00         | 8,490.00         | 6,775.00         | 2,346.50         |           |              |                   |                   |
| 10/01/21         | Lot 32 prior to combined             | Graham    | 0.00            | 2,028.00         | 0.00             | 0.00             | 0.00             | 0.00             |           |              |                   |                   |
| 10/01/21         | Lot 36 prior to combined             | Graham    | 0.00            | 2,028.00         | 0.00             | 0.00             | 0.00             | 0.00             |           |              |                   |                   |
| 10/01/21         | Lot 31 prior to combined             | Graham    | 0.00            | 2,028.00         | 0.00             | 0.00             | 0.00             | 0.00             |           |              |                   |                   |
| 10/01/21         | Lot 35 prior to combined             | Graham    | 0.00            | 2,028.00         | 0.00             | 0.00             | 0.00             | 0.00             |           |              |                   |                   |
| 10/01/21         | RWY-SUSPENSION                       | Graham    | 0.00            | 0.00             | 0.00             | 0.00             | 3,822.50         | 3,642.50         |           |              |                   |                   |
| 10/01/21         | Lot 55/56 original                   | Armstrong | 0.00            | 2,728.00         | 5,516.00         | 8,490.00         | 6,775.00         | 2,346.50         | Armstrong | 51,711.00    | 62,053.20         | 64,053.20         |
| 10/01/21         | Lot 57                               | Armstrong | 0.00            | 2,728.00         | 5,516.00         | 8,490.00         | 6,775.00         | 2,346.50         |           |              |                   |                   |
| <b>TOTAL ALL</b> | <b>13</b>                            | <b>6</b>  | <b>6,360.00</b> | <b>24,892.24</b> | <b>44,128.00</b> | <b>67,920.00</b> | <b>58,022.50</b> | <b>22,414.50</b> |           |              | <b>267,297.30</b> | <b>275,237.00</b> |
|                  | <b>6 delinquent</b>                  |           |                 |                  |                  |                  | <b>TOTAL</b>     |                  |           |              |                   |                   |

**EXHIBIT D**  
**EMAIL OF ELY GROTE**

## Wendell Hawkins

**From:** Ely Grote <Ely.Grote@mccabetrotter.com>  
**Sent:** Monday, February 7, 2022 2:47 PM  
**To:** Wendell Hawkins; Ryan McCabe  
**Subject:** RE: Chandelle Discovery  
**Attachments:** Chandelle Property Owners Association v. Armstrong, et al (2016-CP-42-01854)

Mr. Hawkins,

Our position is based on email correspondence from the court on 11/10/21, a copy of which is attached. A relevant excerpt is copied below:

*As for Request to Produce number 3, Judge Kelly approves of the language that was proposed. The ruling compels Chandelle POA to produce invoices sent by Chandelle POA to Mr. Hawkins' clients that support the debts claimed to be owed. It does not require production of all invoices supporting every single expense that Chandelle POA has ever incurred, and he does not believe the language implies that this is required.*

Also, see the rest of the email chain that Judge Kelly was responding to.

Ely O. Grote  
Shareholder  
McCabe, Trotter & Beverly, P.C.  
4500 Fort Jackson Boulevard  
Suite 250  
Columbia, SC 29209  
Main: 803-724-5000  
Direct: 803-724-5018  
Fax: 803-724-5001  
Email: [ely.grote@mccabetrotter.com](mailto:ely.grote@mccabetrotter.com)



McCABE, TROTTER & BEVERLY, P.C.  
COMMUNITY ASSOCIATION AND CONSTRUCTION LAW

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**From:** Wendell Hawkins <wlh@wlhawkinslawfirm.com>  
**Sent:** Thursday, February 3, 2022 5:26 PM  
**To:** Ely Grote <Ely.Grote@mccabetrotter.com>; Ryan McCabe <Ryan.McCabe@mccabetrotter.com>  
**Cc:** Kelly, R. Keith Law Clerk (Sarah Shugars) <kkellylc@sccourts.org>  
**Subject:** Chandelle Discovery

Ely & Ryan:

I have been trying to piece together this Order on the Motion to Compel (which I still do not see as filed) and figure out Ely's position that at least the Proposed Order provides that the attorney's fees invoices are protected in the Order. I

see RTP 5 as a request for the minutes of the Board meetings. To date, I do not believe I have seen the attorney's fees invoices. An email of Ryan's says that the invoices are billed as assessments. Can you all please point me to any documentation on which you are basing your opinion that the Order states "attorneys invoices" are attorney-client privileged? I simply do not see where the Order says that.

**PLEASE NOTE THAT EFFECTIVE MARCH 1, 2021 OUR NEW ADDRESS WILL BE 310 The Parkway Greer, SC 29650**

**Very Truly Yours,**  
**Wendell L. Hawkins, Esq.**

**NOTE: FOR REAL ESTATE CLOSINGS, FOR ANY AMOUNTS OVER \$1,000.00 WE ONLY ACCEPT WIRES (NO ACH'S), AMOUNTS UNDER \$1,000.00 REQUIRE CERTIFIED CHECKS. CAUTION: FRAUDULET ACTORS HAVE SPOOFED OUT EMAIL ACCOUNTS BEFORE. CALL OUR OFFICE AT 864-848-9370 (ONLY) TO ORALLY VERIFY WIRING INSTRUCTIONS PRIOR TO WIRING.**

Wendell L. Hawkins, PA  
310 The Parkway  
Greer, SC 29650  
(864)848-9370(P) (864)848-9759(F)  
web: [www.wlhawkinslawfirm.com](http://www.wlhawkinslawfirm.com)

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*DEBT COLLECTOR: This firm collects debts for our clients who are creditors. Any information obtained will be used for that purpose. However, if you have previously received a discharge in bankruptcy, this message is not and should not be construed as an attempt to collect a debt, but only as an attempt to enforce a lien.*

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STATE OF SOUTH CAROLINA  
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS  
FOR THE SEVENTH JUDICIAL CIRCUIT  
C/A No: 2016-CP-42-01854

Chandelle Property Owners Association,  
  
Plaintiff,

vs.

James Douglas Armstrong, Jane Armstrong,  
Kenneth L. Galloway, Molly C. Galloway,  
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.

James Douglas Armstrong and Jane  
Armstrong, Warren Johnson, Rhonda  
Johnson, John K. Payne and Ruth G. Payne,

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.

**ORDER ON THE MOTION TO COMPEL  
OF DEFENDANTS JANE VAN WIEN  
AS TRUSTEE OF THE GREER R.G.  
IRREVOCABLE PROPERTY TRUST  
DATED OCTOBER 25, 2006, JAMES  
DOUGLAS ARMSTRONG, JANE  
ARMSTRONG, WARREN JOHNSON,  
RHONDA JOHNSON, JOHN K. PAYNE,  
AND RUTH PAYNE**

018771.00006

On February 22, 2022, this matter came before me for a hearing on the Motion to Compel against Plaintiff, Chandelle Property Owners Association, filed on February 10, 2022 by Defendants Jane Van Wieren as Trustee of the Greer R.G. Irrevocable Property Trust Dated October 25, 2006, James Douglas Armstrong, Jane Armstrong, Warren Johnson, Rhonda Johnson,

John K. Payne, and Ruth Payne (collectively, “Moving Defendants”). At the hearing, attorney Wendell L. Hawkins appeared on behalf of Moving Defendants and attorney Ely O. Grote appeared on behalf of Plaintiff.

### BACKGROUND

On August 18, 2021, Moving Defendants filed a Motion to Compel against Plaintiff. On October 1, 2021, a hearing on the August 18, 2021 Motion to Compel was held before me, and Moving Defendants, by and through their counsel, Wendell L. Hawkins, asserted that the Plaintiff’s responses to Moving Defendants’ Third Supplemental Set of Interrogatories and Requests for Production were deficient.

At the request of the Court, attorney Wendell Hawkins subsequently prepared and distributed a proposed order on the August 18, 2021 Motion to Compel. In relevant part, the proposed order provided:

With respect to Defendants’ claim that no invoices to support debts have been produced pursuant to Request to Produce Number 3, Chandelle shall provide the invoices for such debts for which the Defendants are being assessed or pinpoint the page numbers of such documents/invoices previously provided.

Thereafter, a colloquy took place between counsel and the Court regarding the proposed order, which largely centered around whether the Court’s ruling and the proposed order required Plaintiff to produce attorney’s fees invoices for attorney’s fees incurred by Plaintiff. On November 10, 2021, by email, the Court issued a clarification of its ruling and distributed an approved Order. With respect to the issue of production of attorney’s fees invoices, the Court’s November 10, 2021, email provided:

As for Request to Produce number 3, Judge Kelly approves of the language that was proposed. The ruling compels Chandelle POA to produce invoices sent by Chandelle POA to Mr. Hawkins’ clients that support the debts claimed to be owed. It does not require production of all invoices supporting every single expense that Chandelle POA has ever incurred, and he does not believe the language implies that this is required.

On February 10, 2022, Moving Defendants filed a Motion to Compel against Plaintiff asserting that the Court's prior ruling required Plaintiff to produce the invoices for attorney's fees incurred by Plaintiff.

ORDER

After hearing oral argument, reviewing the submissions of the parties, and after fully considering the facts and circumstances, I find and order as follows: With respect to invoices relating to attorney's fees, Plaintiff and its counsel are not required to produce attorney's fee invoices containing individual time entries with information regarding what the time was billed for; however, Plaintiff is required to disclose the total amount of attorney's fees incurred.

IT IS SO ORDERED.



Spartanburg Common Pleas

**Case Caption:** Chandelle Property Owners Association , plaintiff, et al VS Csc  
Developers Llc , defendant, et al  
**Case Number:** 2016CP4201854  
**Type:** Order/Compel

It is so Ordered.

s/ R. Keith Kelly - 2165

Electronically signed on 2022-07-22 08:34:10 page 4 of 4

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.**

---

SECOND SUPPLEMENTAL CERTIFICATE OF COUNSEL

---

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.

**RECEIVED**

**Jun 30 2023**

**SC Court of Appeals**

**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 30, 2023  
Greer, South Carolina