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Sep 21 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Daniel Coble, Circuit Court Judge

Consolidated Case Nos. 2019-CP-26-02083 and 2019-CP-26-02152

Appellate Case No. 2023-000295

Gary L. Park and Cynthia C. Park Appellants

vs.

Scott Barry Gutovitz and Caron Dawn Gutovitz..... Respondents

**RESPONDENTS' REPLY TO APPELLANTS' RESPONSE
TO RESPONDENTS' MOTION TO STRIKE**

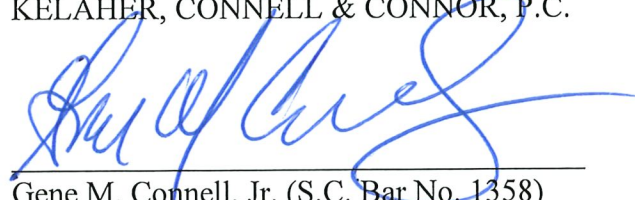
The Respondents Gutovitz in reply to Appellants' response to the Respondents' motion to strike certain documents from Appellants' designation of matters would assert that this case involves two lawsuits which were consolidated. The Parks filed their lawsuit against the Gutovitzes on April 5, 2019, while the Gutovitzes filed their lawsuit against the Parks on April 8, 2019. The Gutovitzes in their lawsuit ask for a jury trial. The Gutovitzes moved to consolidate the two cases for trial. Judge Sprouse heard the motion to consolidate on March 3, 2022 and issued a form Order granting the motion to consolidate. Judge Coble heard Parks' motion to strike jury demand and denied those motions by Form 4 Orders filed February 10 and February 24, 2023 -- almost four years after the lawsuit was filed by the Gutovitzes demanding a jury trial. The only Order appealed is the Order denying Parks' request to strike the Gutovitzes' jury trial demand.

The documents which the Parks attempt to insert into the record have nothing to do with the Gutovitzes' demand for a jury trial. The orders signed by Judges Culbertson and Seals regarding a temporary injunction and summary judgment do not at all relate to the issue on appeal in this case: Did the trial court properly deny the Parks' motion to strike the Gutovitzes' jury trial demand?

It is well settled in South Carolina that extraneous and irrelevant material must not be included in the record on appeal. None of the items in Respondents' motion to strike have anything to do with the jury trial demand issue. South Carolina Appellate Court Rule 209(b) clearly restricts an appellant from putting in the record exhibits which are not relevant to the issue on appeal. See *Forner v. Butler*, 319 S.C. 275, 460 S.E.2d 4259 (S.C. App. 1995) (the only matter that should appear in the appellate record are those items a party believes to be relevant to the appeal). In this case, the orders regarding the injunction, the dissolving of the injunction and the memorandums all have nothing to do with the only issue on appeal in this case -- the denial of Parks' motion to strike the Gutovitzes' jury trial demand. Accordingly, this court should grant Respondents' motion to strike Appellants' designations No. 1, 2, 3, 5, 6, 7, 22, 23, 24, 25, 26 and 28.

Respectfully submitted,

KELAHER, CONNELL & CONNOR, P.C.



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September 21, 2023

Attorneys for Respondents

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PROOF OF SERVICE

PERSONALLY appeared before me, Shelia Y. McCumbee, who being duly sworn, deposes and says that she is an employee of Kelaher, Connell & Connor, P.C., and that she has served a copy of **Respondents' Reply to Appellants' Response to Respondents' Motion to Strike** on the 21st day of September, 2023 by depositing a copy of same in the United States Mail, postage prepaid, to:

George W. Redman, III, Esquire
Robert S. Shelton, Esquire
Bellamy Rutenberg Copeland Epps Gravely & Bowers, P.A.
P.O. Box 357
Myrtle Beach, SC 29578-0357

Shelia Y. McCumbee
Shelia Y. McCumbee

SWORN AND SUBSCRIBED before me,
this 21st day of September, 2023

Donna H. Hand
Notary Public for South Carolina
My Commission Expires: 3-28-26

KELAHER, CONNELL & CONNOR, P.C.

ATTORNEYS AT LAW

SUITE 209

THE COURTYARD

1500 U.S. HIGHWAY 17 NORTH

P.O. DRAWER 14547

SURFSIDE BEACH, SOUTH CAROLINA 29587

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September 21, 2023

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Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Appellate Case No. 2023-000295
Gary L. Park and Cynthia C. Park v. Scott Barry Gutovitz and Caron Dawn Gutovitz
C/A No. 2019-CP-26-02083
Scott Gutovitz and Caron Gutovitz v. Gary L. Park and Cynthia C. Park
C/A No. 2019-CP-26-02152
Our File No. 2019-0140C

Dear Ms. Kitchings:

Attached please find Respondents' Reply to Appellants' Response to Respondents' Motion to Strike and Proof of Service in the above-captioned matter.

By copy of this letter, we hereby serve the above-stated documents on counsel of record.

Should you have any question or need anything further at this time, please do not hesitate to contact me.

Sincerely yours,



Gene M. Connell, Jr.

GMCJr:sm
Attachments

cc: George W. Redman, III, Esquire
Robert S. Shelton, Esquire
L. Morgan Martin, Esquire