

RECEIVED

Nov 13 2023

SC Court of Appeals

The State of South Carolina
In The Court of Appeals

Appeal from Dorchester County
Hon. Heath P. Taylor, Circuit Court Judge

Appellate Case 2023-000720

Case Nos. 2006-CP-18-01310
2006-CP-18-01311
2006-CP-18-01636

John Doe #53, John Doe 66, John Doe 66A, John Doe 67,
Jane Doe 1 and Jane Doe 2 and Rachel Roe, individually
and as representatives of a class of people similarly situated,
Plaintiffs,

Of whom class members Julie McDonald and
Richard McDonald are the Appellants,

v.

The Bishop of Charleston a Corporation sole, and the Bishop of
The Diocese of Charleston, in his official capacity, Respondents,

And

David K. Haller, Lawrence E. Richter, Jr., and Richter
& Haller, LLC, Intervenors.

Motion to Settle the Record and Extend Time

The appellant moves to settle the record and to extend time for the Record to be prepared
in light of this motion.

Through their Designation of Matter to be Included In the Record, Intervenors propose to
include in the Record on Appeal materials not presented to the trial court. SCACR 210(c) states,

“The Record shall not, however, include matter which was not presented to the lower court or tribunal.”

On November 8 we attempted by email to consult counsel for the intervenors about this matter so as to try to resolve it. That November 8 email has elicited no response. We assume this motion is opposed.

Either the intervenors must show when the contested matters were submitted to the lower court, or the limitations of SCACR 210(c) must be waived so as to permit including matters not submitted to the lower court. For example, one item designated by Intervenor did not even exist until after the trial court had ruled, so the item could not possibly have been presented to the trial court. Other designated matters are from other cases, but (as far as we can tell) had not been presented to the trial court. Each category appears to be prohibited by SCACR 210(c).

Attached to this motion is the Intervenor’s Designation of Matter. From that Designation, the documents that, as far as we can tell, were not provided to the lower court are:

- Item 29, a pleading in different litigation,
- Items 32 and 36, Court of Appeals orders in different litigation,
- Items 33 and 34, Supreme Court orders in different but related litigation,
- Item 35, a Supreme Court order in different litigation,
- Item 37, a Court of Appeals order in different litigation,
- Item 38, a complaint filed in different but related litigation,
- Item 39, the Notice of Removal in different but related litigation,
- Item 43, a federal court order granting a motion to remand different but related litigation, and
- Item 44, a motion in different but related litigation, which could not have been submitted to the lower court as it was filed only after the orders at issue in this appeal.

As noted above, an effort to resolve this matter was not responded to by counsel for the Intervenor.

Conclusion

To the extent it can be demonstrated that any of these matters were provided to the trial court we are glad to include the matter in the Record. As far as we can tell, the matters were not presented to the trial court, and in one case the item could not have been presented to the trial court because it did not exist when the court ruled.

To the extent the matter has not been provided to the lower court, we request either that the Court provide us leave to include the matter despite SCACR 210(c) or issue an order addressing each item's inclusion or exclusion from the Record on Appeal.

In either event, we request the Court extend the date the Record is due to a date not less than 15 days from when this motion is ruled on.

The filing fee for this motion will be sent by Unites States mail within ten days.

Respectfully submitted,

s/ Gregg Meyers

Gregg Meyers, SC Bar No. 9908
114 4th Ave NW
Byron MN 55920
843-722-7733, 843-722-7732
attygm@gmail.com

Other counsel of Record:

Allen Sires, *Pro se* Class Representative
1913 Jason Street
North Charleston, S.C. 29406
allensires@icould.com

Richard S. Dukes
Sam Sammartaro
Counsel for Respondent Bishop of Charleston
Turner Padget Graham & Laney, PA

PO Box 22129
Charleston, SC 29413-2129
RDukes@turnerpadget.com
SSammartaro@Turnerpadget.com

Ben Bruner
Chelsea Clark
Counsel for intervenors class counsel Lawrence Richter and
Richter & Haller, LLC
Bruner Powell Wall & Mullins LLC
PO Box 61110
Columbia, SC 29260-1110
BBruner@brunerpowell.com
Cclark@brunerpowell.com

David Haller
Intervenor class counsel
Haller Law Firm
604 Savannah Highway
Charleston SC 29407
dhaller@hallerlawfirm.com

John Cuttino
jcuttino@gwblawfirm.com
Counsel for intervenor class counsel David Haller
Gallivan, White & Boyd, PA
PO Box 7368
Columbia, SC 29202

RECEIVED

Oct 09 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable Heath P. Taylor, Circuit Court Judge

Appellate Case No.: 2023-000720
Civil Action Nos.: 2006-CP-18-01310, -01311, -01636

John Doe #53, John Doe 66, John Doe 66A, John Doe 67, Jane Doe 1 and
Jane Doe 2 and Rachel Roe, individually and as representatives of a class
of people similarly situated,.....Plaintiffs,

Of whom class members Julie McDonald and Richard McDonald are.....Appellants,

v.

The Bishop of Charleston, a Corporation Sole; The Bishop of the Diocese of
Charleston, in his official capacity,.....Respondents,

And David K. Haller, Lawrence E. Richter, Jr., and Richter & Haller, LLC.....Intervenors.

**JOINT DESIGNATION OF MATTER OF DAVID K. HALLER,
LAWRENCE E. RICHTER, JR., AND RICHTER & HALLER, LLC**

Benjamin C. Bruner
Chelsea J. Clark
P.O. Box 61110
Columbia, SC 29260
(803) 252-7693
*Attorneys for Lawrence E. Richter, Jr.
and Richter & Haller, LLC*

John E. Cuttino
P.O. Box 7368
Columbia, SC 29202
(803) 724-1714
Attorney for David K. Haller

Pursuant to Rule 209, SCACR, Lawrence E. Richter, Jr., David J. Haller, and Richter & Haller, LLC, jointly designate the following matter to be included in the Record on Appeal:

1. Complaint, 2006-CP-18-01310, filed August 15, 2006.
2. Complaint, 2006-CP-18-01311, filed August 15, 2006.
3. Complaint, 2006-CP-18-01636, filed October 6, 2006.
4. Order Designating Case Complex, 2006-CP-18-01310, -01311, -01636, filed October 17, 2006.
5. Consent Order of Dismissal Without Prejudice, 2005-CP-10-04913, filed October 23, 2006.
6. S.C. Supreme Court Administrative Order of July 26, 2006 (2006-07-26-01).
7. Order, 2006-CP-18-01310, -01311, -01636, dated January 19, 2007 with attachments.
8. Order Approving Settlement, 2006-CP-18-01310, -01311, -01636, filed July 30, 2007 with attachments.
9. Motion to Certify Classes and for Preliminary Approval of Class Settlement with attachments, 2006-CP-18-01310, -01311, and -01636, filed January 17, 2007.
10. Plaintiffs' Petition for Attorneys' Fees and Litigation Costs, February 14, 2007, with exhibits (6 affidavits).
11. Objection to Class Settlement, filed by Meyers, February 2, 2007.
12. Order, 2006-CP-18-01310, -01311, -01636, filed August 31, 2007 with attachment.
13. Motion to Alter or Amend submitted by Gregg Meyers, 2006-CP-18-01310, -01311, and -01636, dated August 6, 2007.
14. Memorandum in Support of Motion to Alter or Amend, submitted by Gregg Meyers, 2006-CP-18-01310, -01311, and -01636, filed August 22, 2007.
15. Objections to Proposed Order in 2006-CP-18-01310, -01311, and -01636, filed August 1, 2007.
16. Letter from Richter to Shahid, October 5, 2006.
17. Letter to Court with final settlement accounting (8 pages), 2006-CP-18-01310, -01311, -01636, dated March 10, 2008.
18. Petition to Appear as Amicus Curiae, June 19, 2008, in C/A Nos. 2006-CP-18-01310, -01311, -01636.
19. Affidavit of Marvin Infinger, July 22, 2008, in C/A Nos. 2006-CP-18-01310, -01311, -01636.
20. Affidavit of John Freeman, February 28, 2009, in C/A Nos. 2006-CP-18-01310, -01311, -01636.

21. Order [of the Supreme Court denying petition to file in original jurisdiction], March 19, 2009.
22. Order entered March 23, 2009, in C/A Nos. 2006-CP-18-01310, -01311, -01636.
23. Letter from Shahid to Judge Goodstein, April 15, 2009, in C/A Nos. 2006-CP-18-01310, -01311, -01636, with enclosure (3 pp. total).
24. Opinion No. 26984 [of the Supreme Court], filed June 13, 2011.
25. Order of Recusal, January 24, 2013, in C/A Nos. 2006-CP-18-01310, -01311, -01636.
26. Order of S.C. Supreme Court, April 30, 2013.
27. Order of Supreme Court, June 12, 2015, assigning C/A Nos. 2006-CP-18-01310, -01311, -01636 to Judge Nicholson.
28. Letter from Bruner to Clerk of Court, June 22, 2016, in C/A Nos. 2006-CP-18-01310, -01311, -01636.
29. Order on Lawyer Defendants' Motions for Summary Judgment, filed August 11, 2017.
30. Petition for Original Jurisdiction filed October 20, 2020 in the S.C. Supreme Court.
31. Proposed Complaint filed October 20, 2020 in the S.C. Supreme Court, with exhibits.
32. Opinion of S.C. Court of Appeals, March 3, 2021, in Appellate Case No. 2017-001996.
33. Order of S.C. Supreme Court, April 19, 2021, in Appellate Case No. 2020-001415.
34. Order of S.C. Supreme Court, June 15, 2021, in Appellate Case No. 2020-001415.
35. Order of S.C. Supreme Court, August 6, 2021, in Appellate Case No. 2021-000668.
36. Order of S.C. Court of Appeals, October 25, 2021, in Appellate Case No. 2017-001996.
37. Order of S.C. Court of Appeals, January 11, 2022, in Appellate Case No. 2021-001525.
38. Complaint filed August 30, 2022, C/A No: 2022-CP-10-04031.
39. Notice of Removal in C/A No: 2022-CP-10-04031.
40. Order of S.C. Supreme Court, November 10, 2022, in C/A Nos. 2006-CP-18-01310, -01311, -01636.
41. Letter from Meyers to Judge Taylor, November 16, 2022.
42. Memorandum in Opposition to Motions to Intervene and for Post-Award Fairness Hearing, January 26, 2023, in C/A Nos. 2006-CP-18-01310, -01311, -01636.
43. Order Granting Motion to Remand, June 12, 2023, Case Number: 2:22-cv-02940-RMG.
44. Motion to Dismiss filed September 1, 2023, in C/A No: 2022-CP-10-04031, with exhibits.
45. Transcript of Record, March 9, 2007, in C/A Nos. 2006-CP-18-01310, -01311, -01636.
46. Transcript of Record, July 13, 2007, in C/A Nos. 2006-CP-18-01310, -01311, -01636.
47. Transcript of Record, August 9, 2007, in C/A Nos. 2006-CP-18-01310, -01311, -01636.
48. Transcript of Record, October 2, 2008, in C/A Nos. 2006-CP-18-01310, -01311, -01636.

49. Transcript of Record, January 29, 2009, in C/A Nos. 2006-CP-18-01310, -01311, -01636.
50. Transcript of Record, November 23, 2022 in C/A Nos. 2006-CP-18-01310, -01311, & -01636.
51. Transcript of Record, January 27, 2023, in C/A Nos. 2006-CP-18-01310, -01311, & -01636.

CERTIFICATION OF COUNSEL

In accordance with Rule 209(c), SCACR, the undersigned counsel certifies that this Designation of Matter contains no matter which is irrelevant to the appeal.

Respectfully submitted,

BRUNER, POWELL, WALL & MULLINS, LLC

/s/ Benjamin C. Bruner

Benjamin C. Bruner, Bar No. 77544

Chelsea J. Clark, Bar No. 102211

Post Office Box 61110 (29260)

1735 St. Julian Place, Suite 200 (29204)

Columbia, South Carolina

(803) 252-7693

bbruner@brunerpowell.com

cclark@brunerpowell.com

*Attorneys for Lawrence E. Richter, Jr. and
Richter & Haller, LLC*

GALLIVAN, WHITE & BOYD, PA

/s/ John E. Cuttino

John E. Cuttino, Bar No. 1519

Post Office Box 7368 (29202)

1201 Main Street, Suite 1200 (29201)

Columbia, South Carolina

(803) 724-1714

jcuttino@gwblawfirm.com

Attorney for David K. Haller

October 9, 2023
Columbia, South Carolina

RECEIVED

Nov 13 2023

SC Court of Appeals

The State of South Carolina
In The Court of Appeals

Appeal from Dorchester County
Hon. Heath P. Taylor, Circuit Court Judge

Appellate Case 2023-000720

Case Nos. 2006-CP-18-01310
2006-CP-18-01311
2006-CP-18-01636

John Doe #53, John Doe 66, John Doe 66A, John Doe 67,
Jane Doe 1 and Jane Doe 2 and Rachel Roe, individually
and as representatives of a class of people similarly situated,
Plaintiffs,

Of whom class members Julie McDonald and
Richard McDonald are the Appellants,

v.

The Bishop of Charleston a Corporation sole, and the Bishop of
The Diocese of Charleston, in his official capacity, Respondents,

And

David K. Haller, Lawrence E. Richter, Jr., and Richter
& Haller, LLC, Intervenors.

Respondents

Proof of Service

I hereby affirm that I have served upon counsel for the respondents and intervenors, as well as on Mr. Sires, a copy of the

Motion to Settle the Record and to Extend Time

by sending a copy document and this Proof of Service via email to:

Allen Sires, *Pro se* Class Representative
1913 Jason Street
North Charleston, S.C. 29406
allensires@icould.com

Richard S. Dukes
Sam Sammartaro
Counsel for Respondent Bishop of Charleston
Turner Padget Graham & Laney, PA
PO Box 22129
Charleston, SC 29413-2129
RDukes@turnerpadget.com
SSammartaro@Turnerpadget.com

Ben Bruner
Chelsea Clark
Counsel for intervenors class counsel Lawrence Richter and
Richter & Haller, LLC
Bruner Powell Wall & Mullins LLC
PO Box 61110
Columbia, SC 29260-1110
BBruner@brunerpowell.com
Cclark@brunerpowell.com

David Haller
Intervenor class counsel
Haller Law Firm
604 Savannah Highway
Charleston SC 29407
dhaller@hallerlawfirm.com

John Cuttino
jcuttino@gwblawfirm.com
Counsel for intervenor class counsel David Haller
Gallivan, White & Boyd, PA
PO Box 7368
Columbia, SC 29202

Done November 13, 2023.

s/ Gregg Meyers

Gregg Meyers, SC Bar No. 9908
114 4th Ave NW
Byron MN 55920
843-324-1589
attygm@gmail.com