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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Mikell R. Scarborough

Case No. 2017-CP-10-03099

Appellate Case No. 2022-001479

Elizabeth Heatley, Neil B. McCann, Jr., David Neil Monk, Thomas V. Bessent, and
Mariner's Cay Marina Council of Co-Owners, Inc.,.....Respondents,

v.

Mariner's Cay Marina Condo, LLC, Mariner's Cay Fuel Dock, LLC, George A. Farmer.,
Jr., and South Atlantic Bank, Defendants,

Of which Mariner's Cay Marina Condo, LLC, Mariner's Cay Fuel Dock, LLC, and George
A. Farmer., Jr. are the.....Appellants.

SUPPLEMENTAL VOLUME TO THE RECORD ON APPEAL

G. Hamlin O'Kelley, III
S.C. Bar No. 15491
Buist, Byars & Taylor, LLC
652 Coleman Blvd., Suite 200
Mt. Pleasant, SC 29464
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Attorney for the Appellants

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cgb@barrungermcintosh.com

David C. Cleveland, Esq.
SC Bar No.
Clawson and Staubes LLC
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Charleston, SC 29492-8144
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DCleveland@clawsonandstaubes.com
Attorney for the Respondents

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Emerald Portfolio, LLC)
)
 Plaintiff,)
)
 v.)
)
 Tiger River Capital, LLC, Law)
 Firm Finance, LLC, Mariner's Cay)
 Marina Council of Co-Owners, Inc.,)
 and Mariner's Cay Racquet and)
 Yacht Club Homeowners Asso.,)
 Inc.,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT
 C/A No. 2013-CP-10-850

FILED
 2015 JUL 23 PM 2:45
 JULIE J. ARMSTRONG
 CLERK OF COURT

**MASTER'S REPORT ON SALE
 AND DISBURSEMENTS AND
 ORDER OF CONFIRMATION**

UNDER AUTHORITY of a Decree herein filed the 16th day of March, 2015, I offered for sale to the highest bidder for cash, at public auction, the premises subject to this suit, and I received a high bid of \$280,000.00, and I have executed and delivered a Master's Deed to Emerald Portfolio, LLC, and I have disbursed the funds as follows:

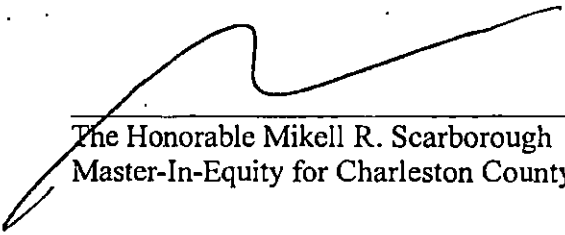
| | |
|---|---------------------|
| <u>CONSIDERATION</u> | \$280,000.00 |
| <u>RECEIPTS</u> | |
| Master's Reference Fee | \$125.00 |
| Master's Commission Fee (1% or maximum) | \$2,500.00 |
| TOTAL RECEIVED BY MASTER | \$2,625.00 |
| <u>DISBURSEMENTS</u> | |
| Master's Reference Fee | \$125.00 |
| Master's Commission Fee (1% or maximum) | \$2,500.00 |
| TOTAL DISBURSEMENTS | \$2,625.00 |

IT IS THEREFORE ORDERED that all the funds having been received and disbursed, I hereby order the file closed and the case ended; and

IT IS THEREFORE ORDERED that the Clerk of Court is authorized and directed to satisfy and cancel the subject mortgage of record; and

IT IS THEREFORE ORDERED that the said sale and the Master's Report on Sale and Disbursements are hereby confirmed as a judgment of this Court.

Date: 7/20/15
Charleston, South Carolina



The Honorable Mikell R. Scarborough
Master-In-Equity for Charleston County

| | |
|--|--|
| STATE OF SOUTH CAROLINA) COUNTY OF CHARLESTON)) Alben D. Neighbors, et al,)) Plaintiffs,) vs.)) Mariners Cay Marina Condo, LLC, et al,)) Defendants.) | IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO.:2017-CP-10-3099 MOTION AND ORDER INFORMATION FORM AND COVERSHEET |
|--|--|

| | |
|--|--|
| Defendant's Attorney: G. Hamlin O'Kelley, Esq., Bar No. _____ Address: 652 Coleman Blvd. Mt. Pleasant, SC Phone: (E-mail: Other: _____ | Plaintiff's Attorney: David C. Cleveland Bar No. 13005 Address: CLAWSON and STAUBES, LLC 126 Seven Farms Drive, Suite 200 Charleston, South Carolina 29492- 8144 Phone: (843) 577-2026 Fax: (843) 722-2867 E-mail: dcleveland@clawsonandstaubes.com |
|--|--|

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion to Compel
 Estimated Time Needed: _____ Court Reporter Needed: YES/ NO

SECTION II: Motion/Order Type

Written motion attached
 Form Motion/Order
 I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for Plaintiff / Defendant _____ Date submitted 3/27/19

SECTION III: Motion Fee

PAID - AMOUNT: \$ _____
 EXEMPT: (check reason)

- Rule to Show Cause in Child or Spousal Support
- Domestic Abuse or Abuse and Neglect
- Indigent Status State Agency v. Indigent Party
- Sexually Violent Predator Act Post-Conviction Relief
- Motion for Stay in Bankruptcy
- Motion for Publication Motion for Execution (Rule 69, SCRPC)
- Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____
 Other: _____

| | |
|--|---------------------------------|
| JUDGE'S SECTION <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____ | JUDGE CODE _____ Date: _____ |
|--|---------------------------------|

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____
 MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Alben D. Neighbors and Dan G. Nekola
on behalf of themselves and others
similarly situated, and Mariner's Cay
Marina Council of Co-Owners, Inc.,

Plaintiffs,

vs.

Mariners Cay Marina Condo, LLC,
Mariners Cay Fuel Dock, LLC, George A.
Farmer, Jr. and South Atlantic Bank,

Defendants.

And

Mariners Cay Marina Condo, LLC and
Mariners Cay Fuel Dock, LLC,

Third-Party Plaintiffs,

vs.

Emerald McDonough Road Holdings,
LLC,

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-10-03099

MOTION TO COMPEL

FILED
2019 MAR 29 PM 1:18
JULIE J. ARHSTROM
CLERK OF COURT

**TO: G. Hamlin O'Kelley, III, Attorney for Mariners Cay Fuel Dock, LLC and
Mariners Cay Marina Condo, LLC**


YOU WILL PLEASE TAKE NOTICE that Plaintiff Mariner's Cay Marina Council of Co-Owners, Inc. by its undersigned attorney, will move before the Presiding Judge of the Charleston Court of Common Pleas at the Charleston County Courthouse at 10:00 a.m. on the tenth (10th) day after service hereof, or as soon thereafter as counsel may be heard for an Order compelling Defendant Mariners Cay Fuel Dock, LLC and

Defendant Mariners Cay Marina Condo, LLC to answer discovery requests propounded pursuant to Rule 33 and/or Rule 34 of the South Carolina Rules of Civil Procedure.

The said Motion will be made on the grounds that Defendant Mariners Cay Fuel Dock, LLC and Defendant Mariners Cay Marina Condo, LLC has failed to answer said discovery in a timely manner. The attached discovery requests were served on January 16, 2019.

I hereby certify that I have communicated with opposing counsel and attempted in good faith to resolve the matter contained in this motion.

CLAWSON and STAUBES, LLC



David C. Cleveland
Bar No.: 13005
126 Seven Farms Drive, Suite 200
Charleston, South Carolina 29492-8144
Phone: (843) 577-2026
Email: dcleveland@clawsonandstaubes.com
Attorney for Mariner's Cay Marina Council of
Co-Owners, Inc.

Charleston, South Carolina

March 26, 2019

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Alben D. Neighbors and Dan G. Nekola on behalf of themselves and others similarly situated, and Mariner's Cay Marina Council of Co-Owners, Inc.,

Plaintiffs,

vs.

Mariners Cay Marina Condo, LLC, Mariners Cay Fuel Dock, LLC, and George A. Farmer, Jr.,

Defendants.

And

Mariners Cay Marina Condo, LLC and Mariners Cay Fuel Dock, LLC,

Third-Party Plaintiffs,

vs.

Emerald McDonough Road Holdings, LLC,

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-10-3099

**PLAINTIFF MARINER'S CAY MARINA
COUNCIL OF CO-OWNERS, INC.'S
SECOND REQUEST FOR
PRODUCTION TO DEFENDANT
MARINERS CAY FUEL DOCK, LLC**

TO: G. Hamlin O'Kelley, III, Attorney for Mariners Cay Fuel Dock, LLC

Pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, Plaintiff request Mariners Cay Fuel Dock, LLC herein, to produce and permit Plaintiff, or someone acting in Plaintiff's behalf, to inspect and copy the following enumerated documents in your possession, custody or control within thirty (30) days after service hereof:

1. Produce copies of all state and federal income tax returns, including all schedules and attachments, if any, filed by or on behalf of Mariners Cay Fuel Dock, LLC for the years of 2016 and 2017.

CLAWSON and STAUBES, LLC



David C. Cleveland
Bar No.: 13005
126 Seven Farms Drive, Suite 200
Charleston, South Carolina 29492-8144
Phone: (843) 577-2026
Fax: (843) 722-2867
Email: dcleveland@clawsonandstaubes.com
Attorney for Mariner's Cay Marina Council of Co-Owners, Inc.

Charleston, South Carolina

January 16, 2019

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Pleading was served upon the following parties on the 16th day of January, 2019, via:

| | |
|---|------------------------------|
| X | United States Postal Service |
| | Facsimile |
| X | Electronic Email |
| | Via Hand Delivery |

Andrew W. Montgomery, Esq.
Rogers Townsend & Thomas, PC
PO Box 100200
Columbia, SC 29202-3200
Email Address: Andrew.Montgomery@rtt-law.com
Attorney For: Emerald McDonough Road Holdings, LLC

Capers G. Barr, IV, Esq.
Barr, Unger & McIntosh, LLC
PO Box 1037
Charleston, SC 29402-1037
Email Address: cbarr@barrungermcintosh.com
Attorney For: Plaintiff

G. Hamlin O'Kelley, Esq.
Buist, Byars & Taylor, LLC
652 Coleman Blvd Ste 200
Mount Pleasant, SC 29464-4061
Email Address: hamlin.okelley@buistbyars.com
Attorney For: Mariners Cay Fuel Dock, LLC, Mariners Cay Marina Condo, LLC,
South Atlantic Bank

Kevin W. Mims, Esq.
Luzuriaga Mims, LLP
50 Immigration St Ste 200
Charleston, SC 29403-3645
Email Address: kmims@lmlawllp.com
Attorney For: Mariners Cay Marina Condo, LLC

Whidbee S. Perrin, Esq.
Luzuriaga Mims, LLP
50 Immigration St Ste 200
Charleston, SC 29403

Email Address: wperrin@lmlawllp.com
Attorney For: Mariners Cay Marina Condo, LLC

Kathy Bench

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Alben D. Neighbors and Dan G. Nekola on behalf of themselves and others similarly situated, and Mariner's Cay Marina Council of Co-Owners, Inc.,

Plaintiffs,

vs.

Mariners Cay Marina Condo, LLC,
Mariners Cay Fuel Dock, LLC, and George A. Farmer, Jr.,

Defendants.

And

Mariners Cay Marina Condo, LLC and
Mariners Cay Fuel Dock, LLC,

Third-Party Plaintiffs,

vs.

Emerald McDonough Road Holdings, LLC,

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-10-3099

**PLAINTIFF MARINER'S CAY MARINA
COUNCIL OF CO-OWNERS, INC.'S
THIRD REQUEST FOR PRODUCTION
TO DEFENDANT MARINERS CAY
MARINA CONDO, LLC**

TO: G. Hamlin O'Kelley, III, Attorney for Mariners Cay Marina Condo, LLC

Pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, Plaintiff request Mariners Cay Marina Condo, LLC herein, to produce and permit Plaintiff, or someone acting in Plaintiff's behalf, to inspect and copy the following enumerated documents in your possession, custody or control within thirty (30) days after service hereof:

1. Produce copies of all state and federal income tax returns, including all schedules and attachments, if any, filed by or on behalf of Mariners Cay Marina Condo, LLC for the years of 2016 and 2017.

CLAWSON and STAUBES, LLC



David C. Cleveland
Bar No.: 13005
126 Seven Farms Drive, Suite 200
Charleston, South Carolina 29492-8144
Phone: (843) 577-2026
Fax: (843) 722-2867
Email: dcleveland@clawsonandstaubes.com
Attorney for Mariner's Cay Marina Council of Co-Owners, Inc.

Charleston, South Carolina

January 16, 2019

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Pleading was served upon the following parties on the 16th day of January, 2019, via:

| | |
|-------------------------------------|------------------------------|
| <input checked="" type="checkbox"/> | United States Postal Service |
| <input type="checkbox"/> | Facsimile |
| <input checked="" type="checkbox"/> | Electronic Email |
| <input type="checkbox"/> | Via Hand Delivery |

Andrew W. Montgomery, Esq.
Rogers Townsend & Thomas, PC
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Email Address: Andrew.Montgomery@rtt-law.com
Attorney For: Emerald McDonough Road Holdings, LLC

Capers G. Barr, IV, Esq.
Barr, Unger & McIntosh, LLC
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Attorney For: Plaintiff

G. Hamlin O'Kelley, Esq.
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Attorney For: Mariners Cay Fuel Dock, LLC, Mariners Cay Marina Condo, LLC,
South Atlantic Bank

Kevin W. Mims, Esq.
Luzuriaga Mims, LLP
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Email Address: kmims@lmlawllp.com
Attorney For: Mariners Cay Marina Condo, LLC

Whidbee S. Perrin, Esq.
Luzuriaga Mims, LLP
50 Immigration St Ste 200
Charleston, SC 29403

Email Address: wperrin@lmlawllp.com
Attorney For: Mariners Cay Marina Condo, LLC

Kathy Birch

2017-CP-10-3099

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Motion to Compel was served upon the following parties on the 27th day of March, 2019, via:

| | |
|---|------------------------------|
| | United States Postal Service |
| | Facsimile |
| X | Electronic Email |
| | Via Hand Delivery |

Andrew W. Montgomery, Esq.
Rogers Townsend & Thomas, PC
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Columbia, SC 29202-3200
Email Address: Andrew.Montgomery@rtt-law.com
Attorney For: Emerald McDonough Road Holdings, LLC

Capers G. Barr, IV
Barr, Unger & McIntosh, LLC
PO Box 1037
Charleston, SC 29402-1037
Email Address: cbarr@barrungermcintosh.com
Attorney For: Alben Neighbors

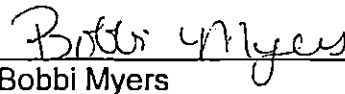
Mr. G. Hamlin O'Kelley, Esq.
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652 Coleman Blvd Ste 200
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Attorney For: Mariners Cay Fuel Dock, LLC, Mariners Cay Marina Condo, LLC,
South Atlantic Bank

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Email Address: kmims@lmlawllp.com
Attorney For: Mariners Cay Marina Condo, LLC

Whidbee S. Perrin, Esq.
Luzuriaga Mims, LLP
50 Immigration St Ste 200
Charleston, SC 29403

FILED
2019 MAR 29 PM 1:18
JULIE J. ANASTROY
CLERK OF COURT

Email Address: wperrin@lmlawllp.com
Attorney For: Mariners Cay Marina Condo, LLC



Bobbi Myers



David C. Cleveland
Licensed In SC
dcleveland@clawsonandstaubes.com

March 26, 2019

File No.: 20172668.000

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad St Ste 106
Charleston, SC 29401-2210

Re: Mariner's Cay Marina Counsel of Co-owners, et al v. Mariners Cay Marina Condo,
LLC, et al.
Case No.: 2017-CP-10-03099

Dear Ms. Armstrong:

Enclosed please find the original and one (1) copy of a Motion to Compel to be filed in the above-referenced case. Please file the original and return a stamped, filed copy of the Motion to Compel in the self-addressed, stamped envelope provided for your convenience. Also enclosed is our check in the amount of Twenty-five (\$25.00) Dollars representing the administrative fee for this request as well as the docketing form required by your office.

Very truly yours,

CLAWSON and STAUBES, LLC



David C. Cleveland

DCC/wrb

Enclosure

cc: Capers G. Barr, IV, Esq. – via email
Kevin W. Mims, Esq. – via email
Andrew W. Montgomery, Esq. – via email
G. Hamlin O'Kelley, Esq. – via email
Whidbee S. Perrin, Esq. – via email

www.clawsonandstaubes.com
126 Seven Farms Drive, Suite 200, Charleston, South Carolina 29492-8144
Office: (843) 577-2026 / Fax: (843) 722-2867

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Alben D. Neighbors and Dan G. Nekola, on behalf of themselves and others similarly situated, and Mariner's Cay Marina Council of Co-Owners, Inc.,

Plaintiff(s),

vs.

Mariners Cay Marina Condo, LLC, Mariners Cay Fuel Dock, LLC, and George A. Farmer, Jr.,

Defendant(s),

and

Mariners Cay Marina Condo, LLC and Mariners Cay Fuel Dock, LLC,

Third-Party Plaintiff(s),

vs.

Emerald McDonough Road Holdings, LLC

Third-Party Defendant(s).

IN THE COURT OF COMMON PLEAS
THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2017-CP-10-3099


FILED
2017 DEC -7 AM 11:14
JULIE ANTHONY STRONG
CLERK OF COURT
BY _____

NOTICE OF APPEARANCE

(020472-00004 / AWM)

Please take notice that the undersigned does hereby give notice of appearance as counsel for Emerald McDonough Road Holdings, LLC (also listed as Emerald McDongough Road Holdings, LLC in certain documents filed in this case) in this case and request that all notices given or required to be given in this case be given to and served upon the undersigned attorney at the address below.

The Clerk of Court and any other person who may be sending notices in connection with this cases is hereby requested to serve upon the undersigned all notices, motions, pleadings, and other documents to which may be entitled.



Andrew W. Montgomery (SC Bar#: 79893)
Rogers Townsend & Thomas, PC
1221 Main Street, 14th Floor (29202)
Columbia, South Carolina 29201
Tel. (803) 771-7900
Fax (803) 343-7017
andrew.montgomery@rtt-law.com
***Attorney for Third-Party Defendant Emerald
McDonough Road Holdings, LLC***

Columbia, South Carolina
December 4, 2017

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Alben D. Neighbors and Dan G. Nekola, on behalf of themselves and others similarly situated, and Mariner's Cay Marina Council of Co-Owners, Inc.,

Plaintiffs,

vs.

Mariners Cay Marina Condo, LLC, Mariners Cay Fuel Dock, LLC, and George A. Farmer, Jr.,

Defendants,

and

Mariners Cay Marina Condo, LLC and Mariners Cay Fuel Dock, LLC,

Third-Party Plaintiffs,

vs.

Emerald McDonough Road Holdings, LLC

Third-Party Defendants.

(020472-00004 / AWM)

IN THE COURT OF COMMON PLEAS
THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2017-CP-10-3099

CERTIFICATE OF MAILING

FILED
2017 DEC -7 AM 11:15
CLERK OF COURT
BY _____

I, Chrystal Compton, employee in the Law Offices of Rogers Townsend and Thomas, PC, attorneys for Third-Party Defendant, Emerald McDonough Road Holdings, LLC, do hereby certify that I have mailed a copy of the Notice of Appearance in connection with the above-referenced case by mailing a copy of the same by United States mail, postage prepaid, to the below on December 4, 2017:

| | | |
|--|---|---|
| <p>Capers G. Barr, IV, Esquire Barr Unger & McIntosh, LLC Post Office Box 1037 Charleston, SC 29402 Attorney for the Plaintiffs</p> | <p>George Hamlin O'Kelley, III, Esquire Buist Byars & Taylor, LLC 652 Coleman Blvd, Suite 200 Mt. Pleasant, SC 29464 Attorney for the Defendants and Third Party Plaintiffs Mariners Cay Marina Condo, LLC and Mariners Cay Fuel Dock, LLC</p> | <p>Joseph K. Qualey and Robert G. Jones, Esquire Qualey Law Firm 23 Broad Street Charleston, SC 29401 Attorneys for the Defendant George A. Farmer, Jr</p> |
|--|---|---|

Chrystal Compton

Chrystal Compton, Paralegal for Andrew W. Montgomery
Rogers Townsend & Thomas, PC
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ROGERS TOWNSEND
ATTORNEYS AT LAW

POST OFFICE BOX 100200 (29202)
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P 803.744.1528 F 803.343.7017
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Andrew Montgomery, Associate
andrew.montgomery@rtt-law.com
P 803.744.5331

December 4, 2017

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street
Suite 106
Charleston, South Carolina 29401-2258


Re: Alben D. Neighbors and Dan G. Nekola, on behalf of themselves and others similarly situated, and Mariner's Cay Marina Council of Co-Owners, Inc. vs. Mariners Cay Marina Condo, LLC and Mariners Cay Fuel Dock, LLC (Defendants/Third Party Plaintiffs), George A. Farmer, Jr. (Defendant) and Emerald McDonough Road Holdings, LLC (Third-Party Defendant)
Case No. 2017-CP-10-3099; Charleston County
Our File No. 020472-00004

Dear Sir/Madam:

Enclosed please find an original and one (1) copy of a Notice of Appearance in the above referenced matter. Please file the Notice of Appearance and return the filed documents to me in the prepaid postage envelope provided.

Please do not hesitate to contact me at 803-744-1528, or chrystal.compton@rtt-law.com if you have any questions, or need anything additional.

Very truly yours,
Rogers Townsend & Thomas, P.C.


Chrystal A. Compton, Paralegal
to Stuart M. Lee, Kara M. Bailey and
Andrew W. Montgomery

Enclosures
cc:

| | | |
|---|--|--|
| Capers G. Barr, IV, Esquire Barr Unger & McIntosh, LLC Post Office Box 1037 Charleston, SC 29402 Attorney for the Plaintiffs | George Hamlin O'Kelley, III, Esquire Buist Byars & Taylor, LLC 652 Coleman Blvd, Suite 200 Mt. Pleasant, SC 29464 Attorney for the Defendants/Third Party Plaintiffs Mariners Cay Marina Condo, LLC and Mariners Cay Fuel Dock, LLC | Joseph K. Qualey and Robert G. Jones, Esquire Qualey Law Firm 23 Broad Street Charleston, SC 29401 Attorneys for the Defendant George A. Farmer, Jr |
|---|--|--|

This firm collects debts for mortgage lenders and other creditors. Any information obtained will be used for that purpose. However, if you are in bankruptcy or have received a bankruptcy discharge of this debt, this communication is not an attempt to collect the debt or give notice of possible enforcement of the lien against the collateral property.

SR 0667

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Alben D. Neighbors and Dan G. Nekola,)
on behalf of themselves and others)
similarly situated, and Mariner's Cay)
Marina Council of Co-Owners, Inc.,)

Plaintiffs,)

v.)

Mariners Cay Marina Condo, LLC,)
Mariners Cay Fuel Dock, LLC, and)
George A. Farmer,)

Defendants.)

Mariners Cay Marina Condo, LLC and)
Mariners Cay Fuel Dock, LLC,)

Third-Party Plaintiffs,)

v.)

Emerald McDonough Road Holdings,)
LLC,)

Third-Party Defendant.)

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

CASE NO. 2017-CP-10-03099

NOTICE OF APPEARANCE

FILED
2018 FEB 26 PM 3:26
CLERK OF COURT
NINTH JUDICIAL CIRCUIT
S.A. →

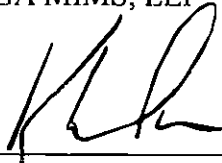
TO: CLERK OF COURT AND ALL COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Kevin W. Mims and Whidbee S. Perrin of the law firm of Luzuriaga Mims, LLP hereby enter an appearance as co-counsel of record with G. Hamlin O'Kelley, III of the law firm of Buist Byars & Taylor, LLC in the above-captioned action on behalf of Defendant/Third-Party Plaintiff Mariners Cay Marina Condo, LLC.

Said counsel further requests that all counsel of record and the Clerk of Court please add the above-referenced co-counsel for Defendant/Third-Party Plaintiff Mariners Cay Marina Condo, LLC to their respective service list and provide copies of all future pleadings,

correspondence, and other relevant matters to the above-referenced counsel at the address set forth herein.

LUZURIAGA MIMS, LLP

By: 

Kevin W. Mims, SC Bar No. 69418
Whidbee S. Perrin, SC Bar No. 100396
50 Immigration St, Suite 200
Charleston, SC 29403
(843) 410-4713
kmims@lmlawllp.com
wperrin@lmlawllp.com

*Attorneys for the Defendant/Third-Party Plaintiff
Mariners Cay Marina Condo, LLC*

And

BUIST BYARS & TAYLOR, LLC

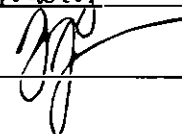
G. Hamlin O'Kelley, III, SC Bar #15491
652 Coleman Blvd., Suite 200
Mt. Pleasant, SC 29464
(843) 856-4488
Hamlin.okelley@buistbyars.com

*Attorneys for the Defendant/Third-Party Plaintiffs
Mariners Cay Marina Condo, LLC, and Mariners
Cay Fuel Dock, LLC*

Charleston, South Carolina
2/22, 2018

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served on all counsel of record in this proceeding this 22nd day of February, 2018.



50 Immigration Street
Suite 200
Charleston, SC 29403
(843) 410-4713 phone
(800) 767-4976 facsimile
www.lmlawllp.com



Terri L. James
Paralegal
(843) 410-4721
tjames@lmlawllp.com

February ²³ 20, 2018

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401

Re: Alben D. Neighbors, et al. v. Mariners Cay Marina Condo, LLC, et al.
Case Number: 2017-CP-10-03099
Claim Number: 300-0339794-2017
LM File Number: 114-20188006

Dear Julie:

Enclosed please find the original and one (1) copy of the Notice of Appearance of Co-Counsel on behalf of Defendant/Third-Party Plaintiff Mariners Cay Marina Condo, LLC in connection with the above-referenced matter. Please file the original and return a file-stamped copy to me in the envelope provided.

By copy of this correspondence to all counsel of record, they are being served with the aforementioned Notice of Appearance. With kindest regards, I am

Sincerely,

LUZURIAGA MIMS, LLP

Terri L. James
Paralegal

TLJ/tlj

Enclosures

cc: All Counsel of Record (via email w/enclosure)

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Alben D. Neighbors and Dan G. Nekola,)
on behalf of themselves and others)
similarly situated, and Mariner's Cay)
Marina Council of Co-Owners, Inc.,)

Plaintiffs,

v.

Mariners Cay Marina Condo, LLC,)
Mariners Cay Fuel Dock, LLC, and)
George A. Farmer,)

Defendants.

Mariners Cay Marina Condo, LLC and)
Mariners Cay Fuel Dock, LLC,)

Third-Party Plaintiffs,

v.

Emerald McDonough Road Holdings,)
LLC,)

Third-Party Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO. 2017-CP-10-03099

NOTICE OF APPEARANCE

FILED
2018 FEB 26 PM 3:26
CLERK OF COURT
BY *[Signature]*

TO: CLERK OF COURT AND ALL COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Kevin W. Mims and Whidbee S. Perrin of the law firm of Luzuriaga Mims, LLP hereby enter an appearance as co-counsel of record with Joseph K. Qualey and Robert G. Jones of the Qualey Law Firm in the above-captioned action on behalf of Defendant George A. Farmer, Jr.

Said counsel further requests that all counsel of record and the Clerk of Court please add the above-referenced co-counsel for George A. Farmer, Jr. to their respective service list and

provide copies of all future pleadings, correspondence, and other relevant matters to the above-referenced counsel at the address set forth herein.

LUZURIAGA MIMS LLP

By: 

Kevin W. Mims, SC Bar No. 69418
Whidbee S. Perrin, SC Bar No. 100396
50 Immigration St, Suite 200
Charleston, SC 29403
(843) 410-4713
kmims@lmlawllp.com
wperrin@lmlawllp.com

AND

QUALEY LAW FIRM

Joseph K. Qualey, Esquire, SC Bar No. 4603
Robert G. Jones, Esquire, SC Bar No. 74964
23 Broad Street
Charleston, SC 29401
(843) 577-3434
JoeQualey@QLawfirm.com
RJones@QLawfirm.com


Attorneys for the Defendant George A. Farmer

Charleston, South Carolina
2/22, 2018

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served on all counsel of record in this proceeding this 2nd day of

February, 2018.



50 Immigration Street
Suite 200
Charleston, SC 29403
(843) 410-4713 phone
(800) 767-4976 facsimile
www.lmlawllp.com



Terri L. James
Paralegal
(843) 410-4721
tjames@lmlawllp.com

February ²³ 20, 2018

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401

Re: Alben D. Neighbors, et al. v. George A. Farmer, Jr.
Case Number: 2017-CP-10-03099
Claim Number: 300-0003680-2018
LM File Number: 114-20188015

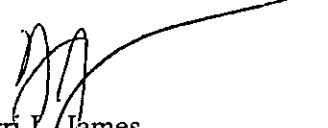
Dear Julie:

Enclosed please find the original and one (1) copy of the Notice of Appearance of Co-Counsel on behalf of Defendant George A. Farmer, Jr. in connection with the above-referenced matter. Please file the original and return a file-stamped copy to me in the envelope provided.

By copy of this correspondence to all counsel of record, they are being served with the aforementioned Notice of Appearance. With kindest regards, I am

Sincerely,

LUZURIAGA MIMS, LLP



Terri L. James
Paralegal

TLJ/tlj

Enclosures

cc: All Counsel of Record (via email w/enclosure)

Myrtle Beach Process Server, LLC

STATE OF SOUTH CAROLINA,)
 COUNTY OF Charleston)
Alben D Neighbors and Dan G Nekola, on behalf)
of themselves and others similarly situated, and)
Mariner's Cay Marina Council of Co-Owners, Inc)
 vs)
 Plaintiff(s))
Mariners Cay Marina Condo, LLC,)
Mariners Cay Fuel Dock, LLC, ,)
George A Farmer, Jr and South Atlantic Bank)
 Defendant(s).)
Mariners Cay Marina Condo, LLC,)
Mariners Cay Fuel Dock, LLC)
 Third Party Plaintiff(s))
Emerald M^CDonoug h Road dHdn gsLLC)
 Third Party Defendant(s))

IN THE COURT OF COMMON PLEAS
 AFFIDAVIT OF SERVICE

9TH JUDICIAL CIRCUIT

FILE NO: 2017-CP-10-3099

JULIE J. ARMSTRONG
 CLERK OF COURT
 2018 MAR 13 PM 1:51

PERSONALLY PREPARED BEFORE ME, the undersigned deponent, who being duly sworn says that (s)he served the **Summons; Second Amended Complaint** in this action

(Describe document(s) served)

on South Atlantic Bank by delivery to
 (Name of party served)
 _____ personally;
 (Name of party served)
 _____ the _____ of the party served,
 (Name of person served) (Note relationship to party)
 and a person of discretion residing at the residence of the party served;

Registered
 Richard N Burch the Agent of South Atlantic Bank
 (Name of person served) (Title) (Name of corporate party served)
 and leaving with (him) (her) a copy at 603 29TH Avenue North
 (Street address)
 in Myrtle Beach Horry County, South Carolina,
 (City or Town) County
 on March 05, 2018 at 12:19 o'clock PM
 that deponent knows the person so served, and that deponent is not a party of this action, is not less than eighteen (18) years of age and has no interest therein or connection therewith.

Sworn to and Subscribed before me)
 this 6TH day of March, 2018)
Betty Riley)
 Notary Public for South Carolina)
 My Commission expires February 28, 2028)

Joh n Millen
 Joh n Millen
 Process Server
 Post Office Box 2114, Myrtle Beach SC 29578

**BARR, UNGER
& MCINTOSH**
ATTORNEYS AT LAW

March 12, 2018

Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street
Charleston, SC 29401

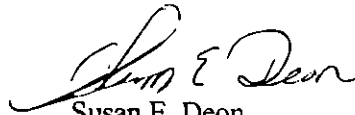
RE: *Alben D. Neighbors, et al. v. Mariners Cay Marina Condo, LLC, et al.*
Case No.: 2017-CP-10-3099

Dear Ms. Armstrong:

Enclosed please find an original and one (1) copy of an Affidavit of Service on Defendant South Atlantic Bank in connection with the above referenced matter.

I would appreciate your filing the original and returning the clocked copy to me in the enclosed envelope.

Sincerely yours,



Susan E. Deon
Legal Assistant to Capers G. Barr, IV

Enclosures (as stated)
:sed

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
ELIZABETH HEATLEY AND DAN G.)
NEKOLA, ON BEHALF OF THEMSELVES)
AND OTHERS SIMILARLY SITUATED,)
AND MARINER'S CAY MARINA)
COUNCIL OF CO-OWNERS, INC.,)

PLAINTIFFS,)

vs.)

MARINERS CAY MARINA CONDO, LLC,)
MARINERS CAY FUEL DOCK, LLC,)
GEORGE A. FARMER, JR., AND)
SOUTH ATLANTIC BANK)

DEFENDANTS,)

and)

MARINERS CAY MARINA CONDO, LLC)
AND MARINERS CAY FUEL DOCK, LLC,)

THIRD-PARTY PLAINTIFFS)

vs.)

EMERALD MCDONGOUGH ROAD)
HOLDINGS, LLC,)

THIRD-PARTY DEFENDANT.)

IN THE COURT OF COMMON PLEAS
THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-10-3099

**AFFIDAVIT OF
ELIZABETH HEATLEY**

FILED
2019 FEB -5 PM 1:19
JULIE J. ARMSTRONG
CLERK OF COURT
BY [Signature]

The undersigned, Elizabeth Heatley, being first duly sworn, deposes and says:

1. My name is Elizabeth Heatley, and I reside at 108 Mariners Cay Drive, Unit 108, Folly Beach, South Carolina.
2. I am the owner of Dock Unit D-8 in the Mariners Cay Marina Horizontal Property Regime. I have owned this dock unit since August 14, 2006.
3. I understand this case has been filed as a proposed class action, with the class consisting of all individuals, trustees, corporations, partnerships, unincorporated associations or

other entities that own, in whole or in part, all of the dock units in Mariners Cay Marina Horizontal Property Regime, with the exception of the fuel docks.

4. My interests in this case are the same as all of the other proposed class members in that we all desire the Court to decide whether the property, which is the subject of this case (herein the "Subject Property") is a common element of the Regime, in which case the class members all own the Subject Property together.

5. I understand that as a class representative, I have a fiduciary duty to all of the members of the class and that I am therefore prosecuting this action not for myself alone, but for all members of the class.

6. I have no relationship, whether legal or personal, with any of the Defendants or the Third-Party Defendant in this case.

7. I have been, and will continue to be, in regular communication with the Plaintiff's counsel, Capers G. Barr IV.

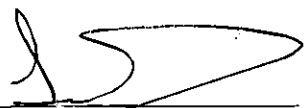
8. I have no interest in this case that is antagonistic to, or in conflict with, the interests of the members of the class, and I believe that I can fairly and adequately protect the interests of the class.

9. I intend to vigorously prosecute the interests of the class through Mr. Barr's legal representation.

Further affiant sayeth not.


ELIZABETH HEATLEY

Sworn to before me
this 23rd day of January, 2019



Notary Public (L.S.)
Print name of Notary: Frances Arnold
My commission Expires: 9/28/2021

TMS#328-00-00-507 - Unit C-21 (Parcel 1)
TMS#328-00-00-508 - Unit C-22 (Parcel 2)

Grantee's Mailing Address:
Emerald McDonough Road Holdings, LLC
c/o Sabal Financial Group
465 N. Halstead Street, Suite 105
Pasadena, CA 91107

SUBJECT TO all easements, rights of way, covenants, zoning or other ordinances and any matters revealed on the premises or on plats of record.

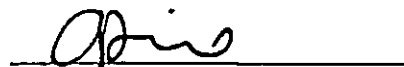
TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.


TO HAVE AND TO HOLD, all Grantor's title and interest in the said premises before mentioned, if any, unto the said Grantee, and Grantee's successors and assigns forever.

IN WITNESS WHEREOF, the Grantor has caused these presents to be executed this 9 day of November, 2015.

Signed, Sealed and Delivered
in the Presence of:


Witness 1 Signature


Witness 2 Signature

GRANTOR:


Emerald Portfolio, LLC (SEAL)
By: R. Patterson Jackson
Its: Chief Executive Officer

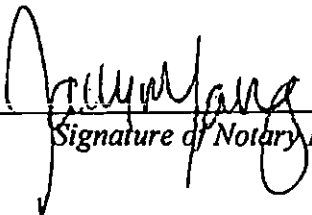
"A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document."

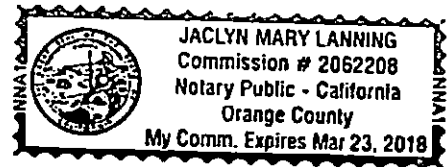
STATE OF CALIFORNIA)
COUNTY OF ORANGE)

On November 9, 2015, before me, Jaclyn Mary Lanning, Notary Public, personally appeared R. Patterson Jackson, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(ies), and that by his/~~her~~/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (SEAL)
Signature of Notary Public



(If no amount is listed, place zero here.)

(c) Subtract Line 6(b) from Line 6(a) and place result here: _____

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording fee due is: _____.
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney for the purchaser.
9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Responsible Person Connected with the Transaction

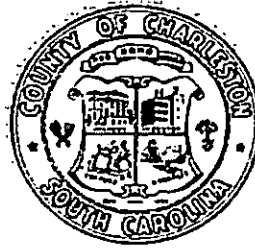


LOUIS H. LANG, Esquire
Print or Type Name Here

SWORN to before me this
10th day of November, 2015.

Katie A. Minton
Notary Public for South Carolina
My Commission Expires: 2/25/2018

RECORDER'S PAGE



NOTE: This page MUST remain with the original document

Atty L Lang OK w/ Exemption #

Filed By:

CALLISON TIGHE & ROBINSON LLC
POST OFFICE BOX 1390

COLUMBIA, SC 29202

RECORDED

Date: November 13, 2015

Time: 10:57:13 AM

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| 0517 | 166 | Q/Claim |

Charlie Lybrand, Register
Charleston County, SC

MAKER:

EMERALD PORTFOLIO LLC

Note:

RECIPIENT:

EMERALD MCDONOUGH ETC

of Pages: 6

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| County Fee | <EXEMPT> |
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| Postage | \$ - |
| Chattel | \$ - |
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Peter J. Tecklenburg
Charleston County Auditor

PID VERIFIED BY ASSESSOR

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DATE NOV 17 2015

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S.R. 6583

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

DEC 13 2023

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Mikell R. Scarborough

Case No. 2017-CP-10-03099

Appellate Case No. 2022-001479

Elizabeth Heatley, Neil B. McCann, Jr., David Neil Monk, Thomas V. Bessent, and
Mariner's Cay Marina Council of Co-Owners, Inc.,.....Respondents,

v.

Mariner's Cay Marina Condo, LLC, Mariner's Cay Fuel Dock, LLC, George A. Farmer.,
Jr., and South Atlantic Bank, Defendants,

Of which Mariner's Cay Marina Condo, LLC, Mariner's Cay Fuel Dock, LLC, and George
A. Farmer., Jr. are the.....Appellants.

CERTIFICATE OF COUNSEL

I certify that the Supplemental Volume to the Record on Appeal contains all
materials proposed to be included in the Record on Appeal by the parties and not any other
material.

SIGNATURE BLOCK ON FOLLOWING PAGE

Mt. Pleasant, South Carolina

December 5, 2023

BUIST BYARS & TAYLOR, LLC



G. Hamlin O'Kelley, III,
SC Bar No. 15491

652 Coleman Blvd., Suite 200

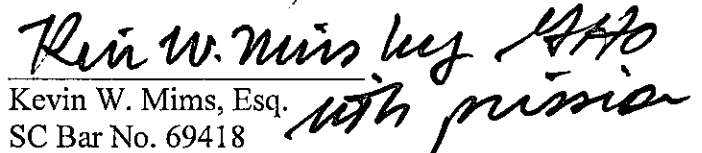
Mt. Pleasant, SC 29464

(843) 856-4488

Hamlin.okelley@buistbyars.com

*Attorney for Appellants Mariners Cay
Marina Condo, LLC, and Mariners Cay Fuel
Dock, LLC and South Atlantic Bank*

LUZURIAGA MIMS, LLP



Kevin W. Mims, Esq.

SC Bar No. 69418

Whidbee S. Perrin, Esq.

SC Bar No. 100396

50 Immigration St, Suite 200

Charleston, SC 29403

(843) 410-4713

kmims@lmlawllp.com

wperrin@lmlawllp.com

*Attorneys for Appellants Mariners Cay
Marina Condo, LLC and George A. Farmer,
Jr.*