

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-in-Equity

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JUL 25 2013

Case No. 2005-CP-10-4101

SC Court of Appeals

Appellate Case No.: 2012-212136

The Milton P. Demetre Family Limited Partnership.....Appellant,

v.

Harry Beckmann, III, Patricia P. Beckmann, Annie Ruth Hilton Crowley,
Raymond Moody Crowley, Donald William Crowley, Harris L. Crowley, Jr.,
and Annie Ruth Crowley Atkinson.....Respondents.

**RETURN TO APPELLANT'S MOTION
TO FILE AND SERVE SUPPLEMENTAL RETURN
OF APPELLANT TO RESPONDENTS' MOTION
TO COMPEL INCLUSION OF
MATERIAL OMITTED FROM RECORD ON APPEAL**

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Attorneys for Respondents

ORIGINAL

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INTRODUCTION

Appellant's counsel has recently filed four Motions with this Court, three of which are currently pending. Respondents currently have one Motion pending with this Court.

Counsel for Appellant filed and served a Motion with this Court dated, July 18, 2013, asking permission to file a Supplemental Return to Respondents' Motion, presently pending before this Court. Counsel for Appellant previously filed a Return to Respondents' Motion with this Court, dated July 1, 2013, and this Court's Rules do not contemplate the filing of a Supplemental Return. Unfortunately, and concurrent with the filing of Appellant's Motion, Appellant filed and served the Supplemental Return without awaiting a decision from this Court allowing/disallowing the filing of a Supplemental Return. Respondents' Return to Appellant's Motion follows:

RETURN

1. Appellant's counsel filed a Supplemental Return with this Court, without leave from this Court.
2. Appellant's Supplemental Return which was served on Respondents' counsel on July 18, 2013.
3. This Court's Rules do not permit the filing of a Supplemental Return.
4. Concurrent with the filing of the Supplemental Return, Appellant's counsel filed a Motion requesting permission to file a Supplemental Return, which Appellant's counsel has already filed. Obviously, Appellant's counsel should have awaited a decision from this Court allowing/disallowing the filing of a Supplemental Return, because Rule 240, South Carolina Appellate Court Rules does not contemplate the filing of a Supplemental Return.
5. Respondents' object to Appellant's filing of a Supplemental Return.
6. Assuming such an extraordinary filing would be allowed by this Court, the time limit for such a filing should have been no more than the time allowed for filing a Reply under Rule 240(f), which is five days. Appellant arbitrarily waited eight days, so their filing is not only inappropriate, but untimely as well.
7. Appellant's Motion is causing unnecessary expense to Respondents and wasting the judicial economy of this Court. Furthermore, Appellant did not cite an adequate reason to justify its seeking extraordinary relief, beyond that allowed in the South Carolina Appellate Court Rules. Appellant's counsel is attempting to have, "another bite at the apple", without Respondent having an opportunity to respond.

CONCLUSION

Based on the foregoing, this Court should deny the relief sought in “Appellant’s Motion to File and Serve Supplemental Return of Appellant to Respondents’ Motion to Compel Inclusion of Material Omitted From Record on Appeal”

Respectfully Submitted,
AUSTIN & ROGERS, P.A.

By: 

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July 25, 2013
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
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v.

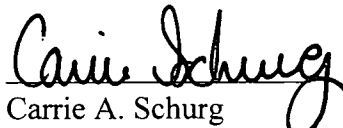
Harry Beckmann, III, Patricia P. Beckmann, Annie Ruth Hilton Crowley,
Raymond Moody Crowley, Donald William Crowley, Harris L. Crowley, Jr.,
and Annie Ruth Crowley Atkinson.....Respondents.

PROOF OF SERVICE

I, Carrie A. Schurg, an employee of Austin & Rogers, P.A., certify that I have caused copies of Respondents' (i) Return to Appellant's Motion to File and Serve Supplemental Return of Appellant to Respondents' Motion to Compel Inclusion of Material Omitted from Record on Appeal (ii) Return to Appellant's Motion to Accept the Record on Appeal as Filed (iii) Return to Appellant's Motion to Extend the Time to Comply with this Court's June 19, 2013 Order Pending Resolution of Appellant's Motion to Accept the Record on Appeal as Filed and (iv) Proof of Service to be served, via U.S. Mail on July 25, 2013, as addressed below.

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Carrie A. Schurg

July 25, 2013

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* ALSO ADMITTED IN N.C.

July 25, 2013

VIA, HAND-DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

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SC Court of Appeals

- Re: • The Milton P. Demetre Family Limited Partnership vs. Harry Beckmann, III, *et al.*
• Appellate Case No.: 2012-212136

Dear Ms. Kitchings:

Enclosed for filing in the above-referenced matter, please find the following:

1. Return to Appellant's Motion to File and Serve Supplemental Return of Appellant to Respondents' Motion to Compel Inclusion of Material Omitted from Record on Appeal, and the required six (6) copies of the Return;
2. Return to Appellant's Motion to Accept the Record on Appeal as Filed, and the required six (6) copies of the Return;
3. Return to Appellant's Motion to Extend the Time to Comply with this Court's June 19, 2013 Order Pending Resolution of Appellant's Motion to Accept the Record on Appeal as Filed, and the required six (6) copies of the Return; and
4. Proof of Service.

Please accept these documents for filing and acknowledge receipt of the same by file-stamping the copies enclosed and returning them to me, via our courier. Please don't hesitate to contact the undersigned if you have any questions or concerns. With best regards, we are,

Respectfully Yours,
AUSTIN & ROGERS, P.A.



Richard L. Whitt
Jefferson D. Griffith, III

RLW/cas

Enclosures

cc: John Hughes Cooper, Esquire
Cain Denny, Esquire