

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ALLENDALE COUNTY
Court of Common Pleas

Brooks P. Goldsmith, Circuit Court Judge

Case Number: 2023-001281

Marcus Riley, Appellant,

v.

Dorothy Riley, individually and Dorothy Riley in her role as Personal Representative of
the Estate of Marion F. Riley, Jr..... Respondent.

MOTION TO REFORM AMENDED RECORD ON APPEAL

On October 11, 2023, Appellant filed his Designation of Matter, along with his initial
brief.

On December 11, 2023, Respondent filed her Designation of Matter, along with her
initial responsive brief. Appellant did not file a Reply Brief.

On January 3, 2024, Appellant filed a document purporting to be the Record on Appeal.

On February 2, 2024, Appellant filed an Amended Record on Appeal. Respondent
objects to the Amended Record on Appeal.

Regarding the Amended Record of Appeal, there remain deficiencies. First, the Record
does not contain the documents identified by Respondent. Those items that have been omitted

include: 1. Request to Take Judicial Notice of the Facts, Filed October 18, 2022; 2. Plaintiff's Exhibit F (February 26, 1999 Deed, Book 127 at Page 1); 3. Amended Inventory and Appraisal, Estate 1999ES0300042 (June 30, 2023).

Second, the Amended Record on Appeal is not paginated, so it is unclear to what page the indexed numbers refer. Further, the Transcript utilized within the Amended Record on Appeal is not numbered consecutively, so it is unclear which portions of the Transcript have been included. It appears that the following portions identified by Respondent have not been included: Pages 87-108; 122-133; 137-147; 153-155; 214; 239-240; 245-248; and 273-274. (It is possible that some portion of those pages have been included, but since they are not numbered consecutively, it is unclear. It is certain that Pages 87-108 have not been included.)

Third, Defendant's Exhibit 11 (Order Closing Estate) has been truncated to exclude the actual Order Closing the Estate. At trial, the Exhibit included the Order, and the Order was provided to Appellant for inclusion.

Fourth, Plaintiff's Exhibit C, May 18, 1995 Power of Attorney was included, but the copy included was obscured by a post-it. A clean copy is within the possession of the Appellant.

And finally, the Amended Record on Appeal continues to contain matter that was not designated timely. As the Amended Record on Appeal is not paginated, the movant will use the page numbers of the .pdf document to call attention to the matter improperly included: Page 285 / 321; Page 286 / 321; Page 311 / 321; and Page 316 / 321. These documents have not been designated by either party, until the delinquent supplemental designation untimely filed with Appellant's Final Brief, which did not comply with Rule 211(b), SCACR.

While the Amended Record on Appeal does include an index, the document is not paginated, so it is unclear to what numbers the Index refers. Further, the documents included within the Amended Record on Appeal are not in the order required by Rule 210, SCACR.

Respondent respectfully requests the Court Order Appellant to reform the Amended Record on Appeal to conform with Rule 210, SCACR. Specifically, Respondent requests that Appellant provide an Amended Record of Appeal that contains those, and only those, items designated by the parties in their properly filed Designations of Matter, is paginated, and otherwise complies with Rule 210, SCACR.

This motion is based on Rules 210 and 211, SCACR, the January 11, 2024 and February 2, 2024 filings of Appellant in this case. Respondent also craves reference to her pending Motion to Strike pleadings, filed January 17, 2024, concerning the supplemental Designation of Matter and the Final Brief.

February 7, 2024
Bamberg, South Carolina

Respectfully Submitted,

s/ Alison Dennis Hood
R. Aaron Ness
Alison Dennis Hood
Ness & Jett, LLC
P.O. Box 909
Bamberg, SC 29003
(803) 245-5178
Attorneys for Respondent

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Feb 07 2024

SC Court of Appeals

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PROOF OF SERVICE

The undersigned certifies that a copy of Correspondence from Respondent, Motion to Reform Amended Record on Appeals, and Proof of Service has been served upon counsel of record for the Appellant using their primary email address listed in the Attorney Information System, as shown below, on February 7, 2024.

Itriss Jenkins, *itriss@jenkinslaw1.com*
Attorney for Appellant

s/ Alison Dennis Hood
Ness & Jett, LLC
Norma A. T. Jett
R. Aaron Ness
Alison Dennis Hood
P.O. Box 909
Bamberg, SC 29003
(803) 245-5178
alisondhood@gmail.com
Attorneys for Respondent

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SC Court of Appeals



Ness & Jett, LLC
Attorneys at Law

NORMA A. T. JETT†*
R. AARON NESS
ALISON DENNIS HOOD

RICHARD B. NESS†* (Retired)
JULIUS B. NESS (1916-1991)

Post Office Box 909
2878 Main Highway
Bamberg, SC 29003

Tel (803) 245-5178
Fax (803) 245-5384
www.nessandjett.com

*CERTIFIED CIRCUIT COURT MEDIATOR
†AMERICAN BOARD OF TRIAL ADVOCATES

February 7, 2024

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

**Re: Motion to Reform Amended Record on Appeal
Proof of Service**

*Marcus Riley, Appellant v. Dorothy Riley, individually and as Personal
Representative of the Estate of Marion F. Riley, Respondent*
Appellate Case No.: 2023-001281

Dear Ms. Kitchings:

Please find enclosed with this letter a Motion to Reform Amended Record on Appeal, and Proof of Service in the above-referenced case from the Respondent Dorothy Riley, individually and as Personal Representative of the Estate of Marion F. Riley. Please file with the Court and return a filed copy to me by email. By electronic copy of this letter, I am serving all counsel of record as stated below.

Pursuant to Order 2020-05-29-02, the \$50.00 filing fee is being mailed to the Court within five days of the date of this electronic filing. Please let me know if you have any questions or concerns. Thank you for your prompt attention to this matter.

Sincerely,

R. Aaron Ness

RAN/aw

Enclosures

cc: Ittriss Jenkins, ittriss@jenkinslaw1.com