

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Honorable Mikell R. Scarborough, Master in Equity

Appellate Case No. 2023-001739

Richard Young and Jason Greene Respondents,

v.

John W. Beasley a/k/a John W. Beasley, Sr.
and Lillian Beasley in their individual capacities
and as Trustees or as Successors in trust under
the Beasley Living Trust dated August 14, 2018,
and any amendments thereto.....Appellants.

**APPELLANTS’ RETURN TO RESPONDENTS’ MOTION TO SUPPLEMENT RECORD
ON APPEAL PURSUANT TO RULE 212(b)**

Appellants do not contest Respondents’ Motion and leave it to the Court’s discretion on whether to supplement the Record on Appeal. However, because Respondents allege they attempted to obtain consent from Appellants, but were unsuccessful, Appellants are filing this Return to clarify and protect the record.

Respondents initially contacted Appellants requesting supplementation of the Record on Appeal with not one, but two documents: (1) the Order of Reference, and (2) the Master-in-Equity’s Order and Judgment of Foreclosure and Sale related to the First-Citizens’ foreclosure action. Appellants responded by inquiring as to the relevance of these two documents, pursuant to

Rule 209(b) of the South Carolina Appellate Court Rules, which sets forth a “party shall not include any matter in his Designation which is not relevant to the appeal.” Regarding the Order of Reference, Respondents’ contention was that it conferred jurisdiction on the Master-in-Equity in this case. However, the Master-in-Equity’s jurisdiction is not in dispute and is not germane for this appeal, making the Order of Reference irrelevant for the purposes of this appeal. Regarding the Order and Judgment of Foreclosure and Sale related to the First-Citizens’ foreclosure action, Respondents’ assertion was that it was referenced by both parties in the initial briefing in this appeal. Again, the fact this order exists and occurred is not disputed and is not germane for this appeal, making it likewise irrelevant for the purposes of this appeal. In response, the undersigned counsel for Appellants informed Respondents we were not yet convinced of the relevance, but asked to set aside that issue momentarily, because we then inquired as to whether either of the documents had been presented to the lower court. If these documents had not been so presented, the Record could not include them, because the “Record shall not . . . include matter which was not presented to the lower court or tribunal,” pursuant to Rule 210(c) of the South Carolina Appellate Court Rules. Appellants never received a response from Respondents regarding the Rule 210(c) issue until the filing of Respondents’ pending Motion five (5) days later.

Appellants were in good faith discussions with Respondents about this issue. Although Appellants are not suggesting Respondents’ have implied any bad faith, Appellants would nevertheless like the record to reflect Appellants were not unreasonably withholding consent. Appellants’ good faith appears to have worked as well, at least partially, because Respondents appear to have forgone supplementing the Record on Appeal with the Order and Judgment of Foreclosure and Sale related to the First-Citizens’ foreclosure action given it was never presented to the lower court. Although Appellants’ see little, if any, relevance in the Order of Reference,

Appellants do not contest its inclusion in the Record on Appeal. Therefore, Appellants are not opposing this Motion and leave it to this Court's discretion on whether to supplement the Record on Appeal.

Respectfully submitted,

MAYNARD NEXSEN, PC

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February 13, 2024