

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2008-CP-23-5245

Blue Ridge Electric Cooperative, Inc. . . . . **Appellant,**

vs.

Kathleen J. Gresham . . . . . **Respondent.**

**APPELLANT'S  
DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL**

Appellant designates the following matters to be included in the Record on

Appeal:

**I. Orders**

- a) Court of Appeals letter Order acknowledging receipt of transcript of reconstruction hearing held on 04/29/2013 and instructing that Appellants' Briefs and Designations of Matter must be served and filed no more than thirty (30) days from date of the letter;
- b) Court of Appeals Order, dated 04/15/2013, ordering that hearing regarding reconstruction of record be held within sixty (60) days;

- c) Court of Appeals Order, dated 10/06/2010, granting Blue Ridge's Motion to Remand Case to Trial Court for Reconstruction of Record, or, in the Alternative, Grant a New Trial;
- d) Order, dated 09/10/2009 and entered on 09/11/2009, denying Blue Ridge's Motion for Judgment NOV or, in the Alternative, for a New Trial Absolute and denying Defendant's Motion to Court following Jury Verdict for Defendant;
- e) Order entered on 08/31/2009 dismissing Blue Ridge's claim against Defendant, Steve Gresham, and Defendant, Steve Gresham's Counterclaim against Plaintiff and granting Plaintiff and Defendant, Kathleen Gresham, ten (10) days to file post-trial motions;
- f) Jury Verdict forms, dated 08/28/2009, finding for Defendant, Kathleen Gresham, against Plaintiff, Blue Ridge, on her Counterclaim for trespass in the amount of \$0.01 actual damages;
- g) Order, dated 11/05/2008 and filed 11/16/2008, denying the Motion of Defendant, Steve Gresham, to dismiss Blue Ridge's action against him;

## **II. Post-Trial Motions**

- a) Blue Ridge's Motion to Remand the Case to the Trial Court for Reconstruction of the Record or, in the Alternative, Grant a New Trial dated 10/06/2010;
- b) Blue Ridge's Motion for a Judgment NOV or, in the Alternative, for a New Trial Absolute dated 09/04/2009;

## **III. Pleadings**

- a) Blue Ridge's Non-Jury Complaint filed 07/15/2008;
- b) Defendant, Stephen Gresham's, Answer and Counterclaim filed 09/16/2008 demanding jury trial;
- c) Defendant, Kathleen Jennings Gresham's, Answer and Counterclaim dated 09/29/2008 and filed 09/30/2008 demanding jury trial;

- d) Blue Ridge's Reply to Counterclaim of Defendant, Kathleen Jennings Gresham, dated 10/13/2008 and filed 10/28/2008;
- e) Blue Ridge's Reply to Counterclaim of Defendant, Stephen Gresham, dated 10/07/2008 and filed 10/09/2008;

**IV. Pre-Trial Motion**

- a) Motion of Defendant, Stephen Gresham, to dismiss Plaintiff's Complaint as to him and for costs and sanctions dated 09/15/2008 and filed 09/16/2008;

**Reply to Pre-Trial Motion**

- a) Blue Ridge's Reply to Defendant, Stephen Gresham's, Motion to Dismiss and for Costs and Sanctions dated 10/09/2008;

**V. Trial Transcript**

Pages: 3-4; 37; 120-122; 125;

**Testimony of Witnesses:**

**Stephen Gresham**  
(pp. 220-221; 224; 234-235);

**Steve Austin**  
(pp. 243; 251-254);

**VI. Reconstruction Hearing Transcript 04/29/2013**

**Testimony of Witnesses:**

**Kathleen Gresham**  
(pp. 24-25; p.34, ll.9-13; p.34, l.17-p.39, l.7; p.49, l.5-p.53; 56-60);

**Steven Austin**  
(p.61, l.21-p.63, l.19; p.68, ll.13-18; p.69, l.16-p.70, l.16);

**Ronnie Alexander**  
(p.72, l.11-p.78,l.11);

**Court's discussion with attorneys**  
(pp. 79-105);

**VII. Court Exhibits (Reconstruction Hearing)**

- #1 Email 11/15/2012;
- #2 Plaintiff's submission of missing testimony/evidence in reconstruction of record dated 11/16/2012;
- #3 Undated submission of "crafted record due to partial missing transcript" from Defendant, Kathleen Gresham;
- #4 Trial Judge's jury charge;
- #5 Trial Judge's civil - general charge jury instructions;
- #6 Trial Judge's handwritten jury charge regarding Plaintiff's trespass on highway right-of-way;

**VIII. Trial Exhibits**

**Plaintiff's Exhibits**

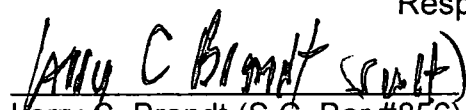
- #12 SCDOT permit issued to Plaintiff, Blue Ridge Electric Cooperative, Inc. for the portion of line on Defendant's property together with staking sheets upon which permit was issued;

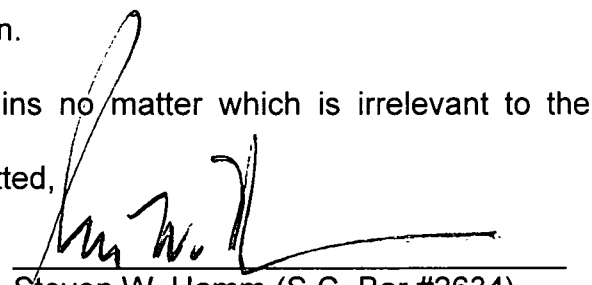
**Defendant's Exhibits**

- #5 Pictures of pole in question.

We certify that this Designation contains no matter which is irrelevant to the appeal.

Respectfully submitted,

  
Larry C. Brandt (S.C. Bar #856)  
**Larry C. Brandt, P.A.**  
P.O. Box 738  
3691 Blue Ridge Blvd.  
Walhalla, SC 29691  
864/638-5406  
**Attorney for Appellant**  
August 2, 2013

  
Steven W. Hamm (S.C. Bar #2634)  
**Richardson Plowden & Robinson, PA**  
1900 Barnwell Street  
P.O. Drawer 7788 (29202)  
Columbia, SC 29201  
803/771-4400  
**Attorney for Appellant**

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PROOF OF SERVICE

RECEIVED

AUG 06 2013

SC Court of Appeals

I certify that I have served **Appellant's Designation of Matter to be Included in the Record on Appeal** upon Respondent by depositing a copy of it in the United States Mail, postage prepaid, on Aug. 2, 2013, to **Kathleen Jennings Gresham, 1524 Highway 11, Landrum, South Carolina 29356.**

By: 

August 2, 2013

Honorable Kitchings:

A courier attempted to deliver this envelope at 3 minutes to 5:00 pm on Friday, August 2, 2013, but the doors were closed. An affidavit will be submitted to this effect on Monday, August 5, 2013.

**RECEIVED**

AUG 06 2013

**SC Court of Appeals**