

**RECEIVED**

**Sep 16 2024**

**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.

---

APPELLANTS' RETURN TO REPLY OF RESPONDENTS'  
AS TO APPELLANTS' MOTION FOR RELIEF  
PURSUANT TO RULE 240 SCACR

---

The Appellants, by and through their undersigned counsel, filed their motion for relief from the oral argument scheduled for October 8, 2024, pursuant to Rule 240 SCACR with the Court on September 9, 2024.

The Respondents filed their reply of Respondents for relief from the oral argument scheduled for October 8, 2024, stating "*...this case was carefully vetted with the parties in June of 2024, more than two months ago. All counsel in this case received a letter from the*

*Court dated June 12, 2024 assigning tentative oral argument dates in September and October of 2024...*” As those dates were being held by counsel, those dates were “tentative” which is why multiple dates were being held. The Appellants reiterate that they have always been courteous in allowing Respondents as to scheduling date changes, it should only be fair to reciprocate in the same manner.

Furthermore, Appellants are the ones who restored the condominiums into what it now is today and have incurred many hundreds of thousands of dollars in expenses. Any and all such units have fallen under the same deed language as used in the Appellants’ purchase of these properties after it was foreclosed upon. Appellants have filed a second appeal as to the viability of those costs as stated in Respondents’ return.

As has been the case from the start of this matter, the Respondents have been walking two sides of the street: the Appellants don’t own the Units but they do own the Units so pay us accordingly.


There is no prejudice in moving the matter to the next Roster for this Court. There would be prejudice in going forward where the Appellants’ members will be out of the country and will not be able to attend oral arguments.

Counsel requests that all timelines be held in abeyance while the Court considers this request.

Mt. Pleasant, South Carolina

September 16, 2024

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](mailto: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. *with Perrin*  
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](mailto:kmims@lmlawllp.com)  
[wperrin@lmlawllp.com](mailto:wperrin@lmlawllp.com)  
*Attorneys for Appellants Mariners Cay  
Marina Condo, LLC and George A. Farmer,  
Jr.*

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.

---

PROOF OF SERVICE

---

I certify that I have served the Appellants' Return to Reply of Respondents' as to  
Appellants' Motion for Relief Pursuant to Rule 240 SCACR by Via Email to  
[cgb@barrungermcintosh.com](mailto:cgb@barrungermcintosh.com), [DCleveland@clawsonandstaubes.com](mailto:DCleveland@clawsonandstaubes.com) and Via US Mail  
addressed to Capers G. Barr, III, Barr, Unger & McIntosh, LLC, 11 Broad Street, PO Box  
1037, Charleston, SC 29402 and David C. Cleveland, Clawson and Staubes, LLC, 126  
Seven Farms Drive, Suite 200, Charleston, SC 29492-8144.

[SIGNATURES ON FOLLOWING PAGE]

Mt. Pleasant, South Carolina  
September 15, 2024

BUIST BYARS & TAYLOR, LLC

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

652 Coleman Blvd., Suite 200  
Mt. Pleasant, SC 29464

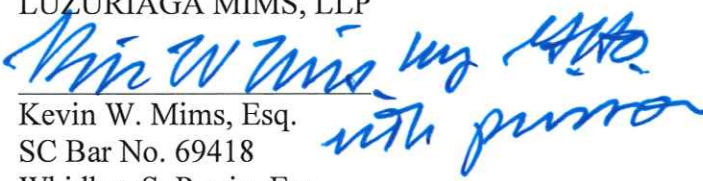
T: (843) 856-4488

F: (843) 856-0613

[Hamlin.okelley@buistbyars.com](mailto: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](mailto:kmims@lmlawllp.com)

[wperrin@lmlawllp.com](mailto:wperrin@lmlawllp.com)

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



652 Coleman Blvd., Suite 200  
Mount Pleasant, SC 29464  
Direct Dial 843.284.1408  
Main 843.856.4488

G. Hamlin O'Kelley, III  
Attorney At Law  
Hamlin.okelley@buistbyars.com

September 16, 2024

VIA EMAIL: [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

AND VIA US MAIL  
The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29211

**RECEIVED**  
**Sep 16 2024**  
**SC Court of Appeals**

*RE: Elizabeth Heatley v Mariners Cay Marina Condo, LLC et al.,  
C/A No.: 2017-CP-10-3099 Appellate Case No. 2022-001479  
Client File No.: 1219.0019*

Dear Ms. Kitchings:

Enclosed please find an original and one (1) copy of the Appellants' Return to Reply of Respondents' As to Appellants' Motion for Relief Pursuant to Rule 240 SCACR and Proof of Service in the above-referenced matter.

By copy of this letter, I am serving same upon all counsel. Should you have any questions, please feel free to contact me.

With kindest regards, I remain

Yours very truly,

G. Hamlin O'Kelley, III

GHOIII/atd  
Enclosures (Via Email and US Mail)  
Capers G. Barr, III, Esq.  
Capers G. Barr, IV, Esq.  
David C. Cleveland, Esq.  
Kevin W. Mims, Esq.  
Whidbee S. Perrin, Esq.