

THE STATE OF SOUTH CAROLINA
Court of Appeals

64573

APPEAL FROM BEAUFORT COUNTY
Court Of Common Pleas

The Honorable Marvin H. Dukes, III

Trial Court Case No. 2009-CP-07-06054
Appellate Case No. 2013-001407

RECEIVED

AUG 27 2013

SC Court of Appeals

Cynthia Griffis, Plaintiff,

v.

Cherry Hill Estates, LLC, Eugene O'Neil, and Ronald Faulkner,
Defendants,

Of Whom Cherry Hill Estates, LLC. and Ronald Faulkner areAppellants.

Cherry Hill Estates, LLC and Ronald Faulkner, Third Party Plaintiffs,

v.

Anthony E. Griffis,Respondent.

**MOTION TO STRIKE
CERTAIN MATTERS DESIGNATED BY APPELLANTS
TO BE INCLUDED IN THE RECORD ON APPEAL**

TO: MICHAEL W. MOGIL, ESQUIRE, ATTORNEY FOR APPELLANTS:

YOU WILL PLEASE TAKE NOTICE that the Respondent, Anthony E. Griffis,
does hereby move before this Honorable Court for an Order to Strike the following Matters
Designated by Appellants to be included in the Record on Appeal: Matters 10, 11, 12, 13,
14, 15, 16, 17,18, 19, 20, 21, 22, 29, 30 (as numbered on the Appellants' "Designation of

Matters to be Included in the Record on Appeal”). This Motion is made pursuant to Rules 208, 209, 210, and 211 of the SCACR. The within Motion is based upon the following grounds:

1. Appellants' Designation of Matter to be Included in Record on Appeal contains matters not cited in Appellants' Initial Brief, and are irrelevant. Rule 208(b)(4), SCACR, states that the Initial Brief *shall* contain references to the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal. Further, the rule states that these references shall be to the page and line number of the transcript prepared by the court reporter or by the page of the material to be referenced. Rule 211(b)(1), SCACR, states that the final briefs shall be *identical* to the initial briefs except for correction of typographical errors and proper citations to the Record. *No other changes may be made.* Appellants cannot add additional citations, in their final brief, which were not in the initial brief. Appellants have designated matters #15, 16, 17, 19, 20, 21, 22, 29, and 30 - but have not cited to this matter in their initial brief.

2. Appellants' Designation of Matter to Be Included in Record on Appeal contains ambiguous and vague matters. Rule 209 (b), SCACR, states that the Designation *must clearly identify* what the party desires to have included in the Record. Appellants' proposed matters 10, 11, 12, 13, 14 and 15 do not clearly identify what Appellant desires to have in the record. Overly broad designations, such as "excerpts from deposition", which do not clearly identify the matter (by page, line number, etc) violate Rule 209. Appellants should not have the discretion, after filing the initial brief and designation of record, to arbitrarily decide what to put in their final brief and record, in violation of our appellate rules.

3. Appellants are designating matter which was not presented to the lower court, in violation of Rule 210(c), SCACR. Even though Appellants do not cite, in their initial brief, to their proposed matter #30, this matter was never presented to the lower court.

CONCLUSION

The above material, designated by Appellants to be included in the Record on Appeal, is irrelevant to this appeal, and is in violation of our appellate court rules. Respondent urges this Court to order that matters 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 29, and 30 be deleted from Appellants' Designation of Matter to be Included in Record on Appeal of this case, because the above matters are irrelevant to the issues on appeal, and in violation of our appellate court rules.

August 23, 2013

Other Counsel of Record:
Michael W. Mogil, Esq.
2 Corpus Christie Place
Suite 303
Hilton Head Island, SC 29928
Attorney for Appellants
843-785-8110



Anthony E. Griffis
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(843) 368-5013
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THE STATE OF SOUTH CAROLINA
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APPEAL FROM BEAUFORT COUNTY
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v.

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Of Whom Cherry Hill Estates, LLC. and Ronald Faulkner areAppellants.

Cherry Hill Estates, LLC and Ronald Faulkner, Third Party Plaintiffs,

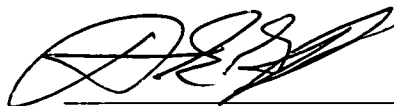
v.

Anthony E. Griffis,Respondent.

PROOF OF SERVICE

I certify that I have served the **MOTION TO STRIKE CERTAIN MATTERS DESIGNATED BY APPELLANTS TO BE INCLUDED IN THE RECORD ON APPEAL** on Appellants by depositing a copy of it in the United States Mail, postage prepaid, on August 23, 2013, addressed to Appellants' attorney of record, Michael W. Mogil, 2 Corpus Christie Place, Suite 303, Hilton Head Island, SC 29928.

August 23, 2013



Anthony E. Griffis
355 Park Ave SW
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SC Court of Appeals

Anthony E. Griffis
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August 23, 2013

The Honorable Jenny Abbott Kitchings
Clerk of Court
The South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Griffis v. Cherry Hill Estates et.al
Appellate Case No. 2013-001407

Dear Ms. Kitchings:

Enclosed for Appellate Case No. 2013-001407 are:

1. Original Respondent's Initial Brief;
2. Respondent's Designation of Matter to be in the Record on Appeal;
3. Proof of Service of above;
4. Original and six (6) copies of Respondent's Motion to Strike, with \$25.00 fee;
5. Proof of Service of Respondent's Motion to Strike.

Please return a copy of the stamped first page of the Brief, and Motion, in the enclosed return envelope.

Thank you.

Sincerely,



Anthony E. Griffis

cc: Mike Mogil, Esq.