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**Mar 31 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas  
C/A No. 2019-CP-32-01442  
Debra R. McCaslin, Circuit Judge

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Appellate Case No. 2022-000597

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Suzan Garland ..... Respondent,

v.

Robert Cade, Christy Cade, and Roger Singleton..... Defendants,

of whom

Robert Cade and Christy Care are the Appellants and Roger Singleton in a Respondent

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**THE RESPONDENT  
Roger Singleton's  
RETURN TO THE APPELLANTS' PETITION FOR REHEARING**

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The respondent Roger Singleton opposes the appellants Robert and Christy Cade's petition for rehearing because this Court, in affirming the trial court's grant of directed verdict for Singleton, neither overlooked nor misapprehended matters of law or fact.

The Cades argue that the trial court's ruling put them "in a 'Catch 22' situation of having to prove the Respondent's case in order to keep Mr. Singleton in the case and submit any claims that they asserted against him to the jury." (Pet. for Reh'g at 3 and 4.) It was not the court, however, who put them in this position. By asserting a claim of negligence against Singleton, the Cades themselves undertook the burden of proving Singleton's breach of duty of care. Note here that only the causes of action of negligence and breach of contract were properly before

the trial court. (R. pp. 30–32.) The Cades did not formally crossclaim for indemnification, be it in equity or under contract. But even if their breach-of-contract and negligence causes of action were deemed a merely disguised claim for equitable indemnification, the Cades would still have the burden of proving Singleton’s fault in causing damage to the plaintiff, and respondent herein, Susan Garland. *See Fountain v. Fred’S, Inc.*, 436 S.C. 40, 47–48, 871 S.E.2d 166, 170 (2022)

During the trial, however, neither the Cades nor Garland presented evidence of Singleton’s failure to adhere to applicable standards of care in repairing the dam or in removing the tree stumps. In fact, the Cades repeatedly testified that they had no evidence of Singleton’s wrongdoing. (*See e.g.* R. pp. 527, lines 4–13; 533, line 7–534, line 10; 530, line 25–531, line 1; 551, lines 11–13 and lines 18–22; 552, lines 12–17; 575, lines 5–11; 561, lines 7–5; 596, lines 6–10; 595, line 25–561, line 1; 596, line 2; 598, lines 21–23; 595, line 3–595, line 12.) For this reason, Singleton’s motion was properly granted by Judge McCaslin, and it was properly affirmed by this Court.

**WHEREFORE**, the respondent Roger Singleton hereby asks for denial of the appellants Christy and Robert Cade’s petition for rehearing of their appeal.

Respectfully submitted,



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Michal Kalwajtys, SC Bar No. 100950  
**BAKER RAVENEL & BENDER, LLP**  
3710 Landmark Drive, Suite 400  
Columbia, SC 29204  
(803) 343-3872  
mkalwajtys@brblegal.com  
**Attorney for the Respondent Roger Singleton**

March 30, 2025

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**PROOF OF SERVICE**

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I certify that on March 30, 2025, I have served the Respondent Roger Singleton's Return to the Appellants' Petition for Rehearing by electronic mail—in accordance with the May 6, 2020, order of the Supreme Court as Amended on May 6, 2022, Appellate Case No. 2020-000447 at § (d)(1)—on counsel for the appellants, Robert Cade and Christy Cade, and the respondent, Suzan Garland, sent to their AIS-registered email addresses, as follows: S. Jahue Moore, Esq., Jake@mbmlawsc.com; H. Freeman Belser, Esq., freeman@belserpa.com; Creston William Brown, Esq., creston@belserpa.com; Michael Joseph Polk, Esq., mike@belserpa.com.

*Michal Kalwajtys*

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Michal Kalwajtys, SC Bar No. 100950  
**BAKER RAVENEL & BENDER, LLP**  
3710 Landmark Drive, Suite 109  
Columbia, SC 29204  
(803) 343-3872  
mkalwajtys@brblegal.com  
**Attorney for the Respondent Roger Singleton**

March 30, 2025

## Garland v. Cade--Singleton's Return to the Appellants' Petition for Rehearing


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From Michal Kalwajtys <MKalwajtys@brblegal.com>

Date Sun 3/30/2025 10:55 PM

To 'Jake Moore' <jake@mbmlawsc.com>; 'Freeman Belser' <freeman@belserpa.com>; 'Creston Brown' <creston@belserpa.com>; mike@belserpa.com <mike@belserpa.com>

Cc 'john@mbmlawsc.com' <john@mbmlawsc.com>

 2 attachments (62 KB)

Singleton's Return to the Cades' Petition for Rehearing.pdf; Proof of Service -- Singleton's Return to the Cades' Petition for Rehearing.pdf;

Gentlemen:

Attached please find a PDF file with the Respondent Roger Singleton's Return to the Appellants' Petition for Rehearing, which I am about to file with the Court of Appeals, being hereby served upon you as the attorneys of record, by email only, in accordance with the May 6, 2022, order of the Supreme Court, Appellate Case No. 2020-000447 at § (d)(1).

Best regards,

Michal Kalwajtys  
Attorney

Direct Line: 803-343-3872

Cell: 803-338-4783

[mkalwajtys@brblegal.com](mailto:mkalwajtys@brblegal.com)



www.brblegal.com  
mail. p.o. box 8057, columbia, sc 29202  
phone. 803.799.9091 | fax. 803.779.3423

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