

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

69998

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Cynthia Graham Howe, Master in Equity

CASE NO. 2008-CP-26-7941

John Sherrill and Estate of Gaye Marie Reynolds.....Appellants

vs.

Gary Moore and Robert Moore.....Defendants,

OF WHOM Gary Moore is theRespondent

**MOTION OF RESPONDENT TO STRIKE
CERTAIN MATTER FROM APPELLANTS'
DESIGNATION OF MATTER TO BE INCLUDED
IN RECORD ON APPEAL**

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SC Court of Appeals

Appellants' Designation of Matter to be Included in Record on Appeal includes
the following items:

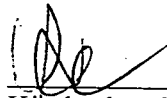
5. Order Approving Wrongful Death Settlement [Order of Judgment] dated May 22, 2008 (C/A No 2003-CP-26-5790)
6. Confession of Judgment dated April 4, 2008 (C/A No. 2003-CP-26-5790)
11. Horry County Public Index – *State v. Gary Robert Moore*

Respondent objects to the inclusion of these items in the Record on Appeal on the grounds that they were not made a part of the record in the case on appeal, and their

inclusion in the Record on Appeal would be a violation Rule 210(c) of the South Carolina Rules of Appellate Procedure, which states in pertinent part, "The Record shall not, however, include matter which was not presented to the lower court or tribunal." *See also Beall v. Doe*, 281 S.C. 363, 315 S.E.2d 186 (Ct.App. 1984), which states "[R]ecords in another proceeding cannot be considered by an appellate court unless they were introduced and made a part of the record in the same manner as other evidence." 281 S.C. at 372, 315 S.E.2d at 191.

For the foregoing reasons, Respondent requests an order striking the above-listed items from Appellants' Designation of Matter to be Included in the Record on Appeal.

RESPECTFULLY SUBMITTED,



Kimberley Campbell
P.O. Box 760
Murrells Inlet, SC 29576
(843) 947-0071
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Attorney for the Respondent

October 7, 2013

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Cynthia Graham Howe, Master in Equity

CASE NO. 2008-CP-26-7941

John Sherrill and Estate of Gaye Marie Reynolds.....Appellants

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Gary Moore and Robert Moore.....Defendants,

OF WHOM Gary Moore is theRespondent

PROOF OF SERVICE

I certify that I have served the Motion of Respondent to Strike Certain Matter From Appellants' Designation of Matter to be Included in the Record on Appeal by depositing a copy of it in the United States Mail, postage prepaid, addressed to their attorney of record, Gene M. Connell, Jr., P.O. Drawer 14547, Surfside Beach, SC 29587 on October 7, 2013.



Kimberley Campbell
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Attorney for the Respondent

October 7, 2013

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KIMBERLEY CAMPBELL
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October 7, 2013

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

Re: John Sherrill and Estate of Gaye Marie Reynolds v. Gary Moore and Robert Moore
Appellate Case No. 2013-CP-26-001433
Civil Action No. 2008-CP-26-7951

Dear Ms. Kitchings,

Enclosed for filing is the Respondent's Motion to Strike Certain Matter from Appellants' Designation of Matter to be Included in the Record on Appeal in the above-caption matter; I also enclose my firm's check in the amount of \$25.00 for the filing fee.

I would be most grateful if you would return filed copies to me in the enclosed self-addressed envelope.

By copy of this letter, I am serving a copy of this Motion on counsel for Appellants.

Sincerely,



Kimberley Campbell
P.O. Bo 760
Murrells Inlet, SC 29576
(843) 947-0071
Attorney for the Respondent

cc: Gene M. Connell, Jr.
P.O. Drawer 14547
Surfside Beach, SC 29587

Mr. Gary Moore

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