

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM YORK COUNTY  
Court of Common Pleas

S. Jackson Kimball, Special Circuit Court Judge

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Case No. 2012-CP-46-2692  
Appellate Case No. 2012-213352

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OCT 04 2013

SC Court of Appeals

Paul Sullivan as Personal Representative of the  
Estate of Pauline C. Cook,.....Respondent,

v.

Park Pointe Village, Inc., a wholly owned subsidiary of  
ACTS Retirement-Life Communities, Inc., Neva Lattimer,  
and Marvin Lawrence,.....Appellants.

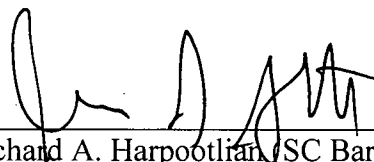
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**MOTION FOR LEAVE TO FILE SURREPLY**

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Respondent, by and through his undersigned counsel, hereby moves this Court for leave to file a surreply brief in the matter referenced above. The reason for this request is that the Appellants' initial reply brief sets forth extensive argument based on the case of Cape Romain Contractors, Inc. v. Wando E., LLC, 405 S.C. 115, 747 S.E.2d 461 (2013). At the time he filed his initial Respondent's brief, Cape Romain had not yet been decided and, therefore, Respondent could not have anticipated Appellants' reply arguments based on Cape Romain. Respondent asserts Cape Romain is not controlling authority on any issue in this case and requests leave to set forth the reasons in support of this argument in a surreply brief.

Respondent anticipates the surreply brief, if permitted, would be no more than five or six pages in length, and certifies that the surreply would be limited to a discussion of Cape Romain and its impact upon the issues raised by Appellants. Pursuant to Rule 208(b)(7), SCACR, Respondent brought the Cape Romain decision to the Court's attention as soon as the decision became final; however, Rule 208(b)(7), SCACR expressly prohibits argument. Because Cape Romain was decided after his (initial) brief was filed and because Appellants rely heavily on Cape Romain in their (initial) reply brief, Respondent respectfully requests, in the interests of fairness and justice, leave to address the impact of Cape Romain on this appeal.



Richard A. Harpootlian (SC Bar No. 2725)  
Graham L. Newman (SC Bar No. 72845)  
M. David Scott (SC Bar No. 68667)  
RICHARD A. HARPOOTLIAN, P.A.  
1410 Laurel Street (29201)  
Post Office Box 1090  
Columbia, South Carolina 29202  
Telephone: (803) 252-4848  
Fax: (803) 252-4810

ATTORNEYS FOR RESPONDENT

Columbia, South Carolina  
October 4, 2013

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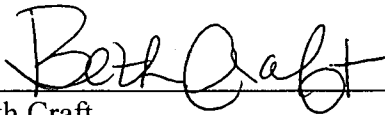
Park Pointe Village, Inc., a wholly owned subsidiary of  
ACTS Retirement-Life Communities, Inc., Neva Lattimer,  
and Marvin Lawrence,.....Appellants.

**CERTIFICATE OF SERVICE**

I, Beth Craft, on behalf of Richard A. Harpootlian, P.A., hereby certify that I served the  
following individual(s), on October 4, 2013, with a copy of the following:

**Document:** Motion for Leave to File Surreply.

**Counsel:** **VIA HAND DELIVERY**  
Carmelo B. Sammataro, Esquire  
R. Gerald Chambers, Jr., Esquire  
Turner Padget Graham & Laney, P.A.  
Bank of America Plaza  
1901 Main Street, 17<sup>th</sup> Floor  
Columbia, SC 29201

  
Beth Craft

# Richard A. Harpootlian, P.A.

ATTORNEYS AT LAW  
1410 LAUREL STREET  
COLUMBIA, SOUTH CAROLINA 29202

RICHARD A. HARPOOTLIAN  
rah@harpootlianlaw.com

GRAHAM L. NEWMAN  
gln@harpootlianlaw.com

M. DAVID SCOTT  
mds@harpootlianlaw.com

CHRISTOPHER P. KENNEY  
cpk@harpootlianlaw.com

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JAMIE L. HARPOOTLIAN\*  
OF COUNSEL  
\*admitted in Louisiana

MAILING ADDRESS  
POST OFFICE BOX 1090  
COLUMBIA, SOUTH CAROLINA, 29202

TELEPHONE (803) 252-4848  
FACSIMILE (803) 252-4810  
TOLL FREE (866) 706-3997  
WWW.HARPOOTLIANLAW.COM

October 4, 2013  
**VIA HAND DELIVERY**

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, SC 29201

In re: Paul Sullivan as Personal Representative of the Estate of Pauline C. Cook v. Park  
Pointe Village, Inc., Neva Lattimer, and Marvin Lawrence  
Appellate Case No. 2012-213352

Dear Clerk Kitchings:

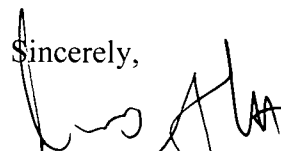
Enclosed please find for filing the original and eight (8) copies of the following:

- 1) Motion for Leave to File Surreply.

I would appreciate you filing the enclosed and forwarding the clocked copies to my  
courier. By copy of this letter, I am serving opposing counsel with a copy of the same.

With warm personal regards, I am

Sincerely,



M. David Scott

/sec

Enclosure(s)

cc: Carmelo B. Sammataro, Esquire  
R. Gerald Chambers, Jr., Esquire

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