

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Clifton Newman, Circuit Court Judge

Case No.: 2011-CP-23-6376

Kevin McCarthy and Courtney E. McCarthy, Appellants,

v.

Keowee Falls Investment Group, LLC, The Cliffs Communities, LLC d/b/a The Cliffs at
Keowee Falls South, Cliffs Real Estate, Inc., The Cliffs Golf and Country Club, Inc. and S&ME,

Of whom

S&ME, Respondent.

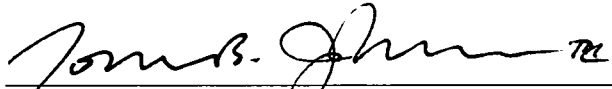
MEMORANDUM REGARDING APPEALABILITY

Plaintiffs / Appellants Kevin McCarthy and Courtney E. McCarthy (hereinafter
“Appellants”) filed their complaint against defendants Keowee Falls Investment Group, LLC,
The Cliffs Communities, LLC d/b/a The Cliffs at Keowee Falls South, Cliffs Real Estate, Inc.,
The Cliffs Golf and Country Club, Inc. and S&ME on or about September 27, 2013.
Subsequently, on or about March 22, 2013, Appellants filed a Motion to Amend their complaint
to assert a professional negligence cause of action against Defendant / Respondent S&ME
(hereinafter “Respondent”). Appellants’ Motion to Amend also petitioned the Court for
Appellants to assert an additional cause of action against Defendants Keowee Falls Investment
Group, LLC, The Cliffs Communities, LLC, both non-parties to this appeal.

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While Appellants Motion to Amend was pending, Respondent filed a Motion for Summary Judgment as to all causes of action in Appellants' initial complaint asserted against Respondent. Appellants' Motion to Amend and Respondent's Motion for Summary Judgment were heard on May 3, 2013. The Honorable Clifton Newman denied Appellants' Motion to Amend and granted Respondent's Motion for Summary Judgment and Orders on both motions were filed with the Clerk of Court for Greenville County on July 22, 2013.

On or about August 2, 2013, Appellants filed a timely Motion to Alter or Amend the Order granting Respondent's Motion for Summary Judgment. That motion is currently still pending with the Court. Accordingly, Appellant, not having a ruling on the Motion to Alter or Amend from the Court, filed its Notice of Appeal out of an abundance of caution in order to preserve its rights to appeal the Court's denial of its Motion to Amend.



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Other Counsel of Record:
Stephanie H. Burton, Esq.
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308 East Saint John Street
Spartanburg, SC 29302
Attorney for Defendant S&ME, Inc.

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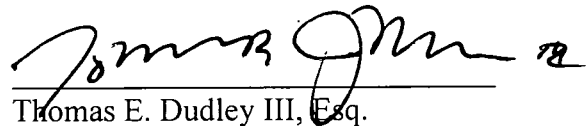
Keowee Falls Investment Group, LLC, The Cliffs Communities, LLC d/b/a The Cliffs at
Keowee Falls South, Cliffs Real Estate, Inc., The Cliffs Golf and Country Club, Inc. and S&ME,

Of whom

S&ME, Respondent.

PROOF OF SERVICE

Comes now Townes B. Johnson III, and certifies that a copy of Appellants' Memorandum Regarding Appealability was served on the opposing party on this 31 day of October, 2013, via email and by placing the same in the U.S. Mail with sufficient postage affixed to Respondent's Counsel of Record, Stephanie H. Burton, Esq., at the following address: 308 East Saint John Street, Spartanburg, SC 29302 and Elizabeth H. McMillan at the following address: P.O. Box 2980, Greenville, SC 29602.



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Attorneys for the Appellant

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A T T O R N E Y S A T L A W

KEVEN K. KENISON
(1964-2013)

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Practicing Attorney in South Carolina and North Carolina

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TOWNES B. JOHNSON, III
Practicing Attorney in South Carolina

F. LEE PRICKETT, III
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October 3, 2013

Via Facsimile (803)734-1890 and Regular Mail

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

Re: McCarthy v. S&ME, et al
 C.A. No.: 2011-CP-23-6376

Dear Ms. Kitchings:


Enclosed, please find the original and six (6) copies of Appellants' Motion to Amend Notice of Appeal, a Proof of Service for same, and our filing fee in the amount of \$25.00.

Also enclosed, please find the original and six (6) copies of Appellants' Memorandum regarding Appealability and a Proof of Service for same,

By copy of this correspondence, I am serving the same on all counsel of record.

Sincerely,

KENISON DUDLEY & CRAWFORD, LLC


Townes B. Johnson III

Cc: Stephanie H. Burton, Esq.
 Elizabeth H. McMillan, Esq.

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SC Court of Appeals

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