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Oct 16 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY
WILLIAM H. SEALS, JR., CIRCUIT COURT JUDGE

Appellate Case No. 2025-000796

Gabriel Barnhill and GSB Enterprises, LLC, Respondents,

v.

J. Floyd Swilley, J. Floyd Swilley Investment Advisors,
Laurel K. Swilley, SMG Partners, LLC, SMS Services, LP,
WCP Limited, LLC, 809 Holdings, LP, QC Financing, LLC
Heath Causey and Sage Financial Group, LLC, Defendants,

of which J. Floyd Swilley, Laurel Swilley and
Heath Causey are the Appellants.

**APPELLANT’S REPLY TO RETURN TO MOTION
FOR LEAVE TO FILE AMENDED NOTICE OF APPEAL**

Appellants J. Floyd Swilley, Laurel Swilley, and Heath Causey (hereafter “Appellants”) filed a Motion for Leave to File an Amended Notice of Appeal. As part of that motion, Appellants set forth the factual basis for the relief sought, but in light of Respondents’ opposition to the motion, further supplements its motion with the following legal authority and argument that justify the relief sought by Appellants.

Rule 203, SCACR sets forth all requirements with respect to notices of appeal. Example notices are provided in Appendix C to the SCACR, including a form appropriate for the nature of the above-captioned appeal from circuit court rulings. See Appendix C, Form 1 (Notice of Appeal

in a Civil Case), SCACR. That form succinctly shows an example that sets forth all required elements for such notices, as set forth expressly in Rule 203(e)(1), SCACR.

Rule 203(e) requires appellants to adhere “substantially” to the requirements of the form provided in the index. Here, Appellants have done so, even in the original Notice of Appeal, set forth all required elements clearly, but gone further and provided greater detail insofar as the content of the orders being appealed were described by Appellants. See original Notice of Appeal dated April 24, 2025 in this matter, which in relevant portion described the order dated April 2, 2025 as one “which amended the November 6, 2024 order of judgment following cross-motions pursuant to Rule 59(e).”

Appellate courts in this state have determined that even though the content of the notice of appeal did not exactly match the example contained in the appendix, it sufficiently informed respondent that appellants were appealing the trial court's denial of the new trial motion and was therefore acceptable. *Pittman v. Stevens*, 364 S.C. 337, 613 S.E.2d 378 (2005)

Additionally, clerical deficiencies in the notice of appeal are not necessarily cause for dismissal if the errors are not prejudicial to the respondent. See *Moody v. Dickenson*, 54 S.C. 526, 32 S.E. 563 (1899) (finding no error "in allowing the defendant to correct a mere clerical error in the title of his notice of intention to appeal, whereby it is not even claimed that plaintiffs were misled or in any way prejudiced"); *Charleston Lumber Co. v. Miller Haus. Corp.*, 318 S.C. 471, 458 S.E.2d 431 (Ct. App. 1995) (overlooking a clerical error in the notice of appeal because the respondent did not allege that prejudice resulted from a clerical error and obviously had knowledge that the appellants had appealed the case).

Accordingly, Appellants request this Court's acceptance of Appellant's Amended Notice of Appeal, which includes the proper attachments intended and referenced in the initial filed and served notice.

Respectfully submitted,

s/ Harvey M. Watson III

Desa Ballard (S.C. Bar No. 498)

Harvey M. Watson III (S.C. Bar No. 74053)

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ATTORNEYS FOR APPELLANTS

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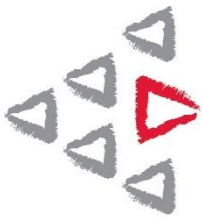
PROOF OF SERVICE

I, Beth Cogan, an employee with Ballard & Watson, do hereby certify that on October 16, 2025, I served a copy of the **Reply to Return to Motion for Leave to file Amended Notice of Appeal**, in the above-captioned case on the following individuals by electronic mail using their email address listed in the Attorney Information System, addressed as follows:

Nate Fata, Esquire
NATE FATA, P.A.
nfata@fatalaw.com


Beth Cogan, Paralegal

October 16, 2025



Ballard & Watson
Attorneys at Law
PERSISTENT. UNWAVERING.

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October 16, 2025

Via Email (ctappfilings@sccourts.org)

The Honorable Jenny Abbot Kitchings
Court of Appeals Clerk of Court
Post Office Box 11629
Columbia, South Carolina 29211

Re: *Gabriel Barnhill, et al. v. J. Floyd Swilley, et al.*
Case No.: 2025-000796

Dear Ms. Kitchings:

Enclosed for filing, please find Appellants' Reply to Return to Motion for Leave to File Amended Notice of Appeal and a Proof of Service for the above-referenced matter. By copy of this letter and as evidenced by the Proof of Service, this filing has been served upon counsel for the Respondent. If you have any questions, please do not hesitate to contact our office. With warm personal regards, I am,

Sincerely yours,

Harvey M. Watson III
harvey@desaballard.com

Enclosures

cc: *Via Email*
Nate Fata, Esquire
Floyd Swilley
Laurel Swilley, Esquire
Heath Causey