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Oct 27 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM EDGEFIELD COUNTY
Court of Common Pleas
Hon. R. Lawton McIntosh, Circuit Court Judge

Appellate Case No.: 2024-001510
Circuit Court Case No.: 2021-CP-19-00050

Elizabeth M. Ferraro, James T. Ferraro, Edward J. Przybyl,
Marcella Gleie, John E. Gleie, Jr., Thomas Bowes, Connie Bowes,
Moataz Alasadi, Virginia Kirkwood, Bob Kirkwood, Paul Vichroski,
Nydza Vichroski, James Montellese, Roxann Montellese,
Individually, Derivatively, and on Behalf of all the Mount Vintage
Homeowners Association Members,.....Respondents,

v.

LL of SC, LLC, Raiford Topsail Island Investments, LLC, TR Sales
Plantation, LLC, and Mount Vintage Plantation Homeowners
Association, Inc. a/k/a Mount Vintage Homeowners Association, Inc.....Defendants,

Of which LL of SC, LLC, Raiford Topsail Island
Investments, LLC, and TR Sales Plantation, LLC, are theAppellants.

RESPONDENTS' MOTION TO STRIKE

Justin O'Toole Lucey, Esq. (SC Bar No. 15438)
Anna Scarborough McCann, Esq. (SC Bar No. 102314)
Collin H. Fuller, Esq. (SC Bar No. 103439)
Justin O'Toole Lucey, P.A.
415 Mill Street
Mt. Pleasant, South Carolina 29464
843-849-8400
jlucey@lucey-law.com
amccann@lucey-law.com
cfuller@lucey-law.com
Attorneys for Plaintiffs/Respondents

Please take notice that, pursuant to Rule 240, SCACR, the undersigned counsel for Respondents respectfully requests an Order from the Court striking from the record the offer of compromise, transmitted through the mediator, which Appellants attached to their Motion to Compel Settlement as “Attachment B.” (*See* App. Mot. to Compel, filed Oct. 24, 2025). In furtherance of this Motion, Respondent would show unto the Court as follows:

1. Although a Mediation Settlement Agreement was signed during the mediation of this matter on October 7, 2025, there were various conditions precedent included in the Agreement which had to occur or be present in order for the Agreement to become effective.

2. The Mediator, Mr. Frank Smith, remained engaged with the parties to ensure the conditions precedent were satisfied or present.

3. During the approximately three (3) weeks which transpired between the mediation and the instant Motion, various financial transactions and liabilities came to light as a result of the due diligence contemplated by the conditions precedent in the Mediation Settlement Agreement.

4. In an effort to resolve the financial irregularities and satisfy the Financial Contingency¹ contained in the Mediation Settlement Agreement, counsel for the Respondents sent the Mediator a proposed offer of compromise to extend to the Appellants (“Proposed Addendum”).

5. This Proposed Addendum, like all communications exchanged between the parties and the Mediator, was confidential and protected under various rules, including S.C. ADR Rule 8(a)(1)-(5) and SCRE 408.

6. Appellants have breached the sacrosanct confidentiality afforded to mediation communications by filing the Proposed Addendum publicly.

¹ The “Financial Contingency” is more particularly described in Respondents’ Return to Appellants’ Motion to Compel, which Return was filed on October 27, 2025.

7. None of the exceptions to the protections afforded to mediation communications enumerated in S.C. ADR Rule 8(c) applies to the Appellants' filing of the Proposed Addendum, and Appellants do not claim otherwise.

8. The Proposed Addendum's existence does not affect whether the Mediation Settlement Agreement that Appellants seek to enforce is in fact valid or enforceable.

9. Appellants fail to forthrightly present the Proposed Addendum to the Court, including failing to clarify that it was sent by Respondents to the Mediator as an offer of compromise and was not sent directly to Respondents.

10. The Proposed Addendum was a confidential offer of compromise extended by Respondents to Appellants *through the Mediator* and was sent to resolve the heretofore unresolved condition precedent in the Mediation Settlement Agreement.

WHEREFORE, Respondents respectfully request the entry of an Order striking from the record the Proposed Addendum filed by Appellants as "Attachment B" to their Motion to Compel Settlement filed on October 24, 2025, and for any other relief which this Court deems just and proper.

Respectfully,

s/ Anna S. McCann

Justin O'Toole Lucey, Esq. (SC Bar No.: 15438)

Anna Scarborough McCann, Esq. (SC Bar No 102314)

Justin O'Toole Lucey, P.A.

415 Mill Street

Mt. Pleasant, South Carolina 29464

843-849-8400

jlucey@lucey-law.com

amccann@lucey-law.com

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PROOF OF SERVICE

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Collin H. Fuller, Esq. (SC Bar No. 103439)
Justin O’Toole Lucey, P.A.
415 Mill Street
Mt. Pleasant, South Carolina 29464
843-849-8400
jlucey@lucey-law.com
amccann@lucey-law.com
cfuller@lucey-law.com
Attorneys for Plaintiffs/Respondents

The undersigned hereby certifies that on this day, October 27, 2025, she served a true copy of the within and foregoing **Respondents' Motion to Strike**, upon all counsel of record to this matter via electronic mail to the e-mail addresses listed on the following pages:

Other Counsel of Record:

Steven Edward Buckingham (S.C. Bar No. 0075089)
The Law Office of Steven Edward Buckingham
16 Wellington Avenue
Greenville, South Carolina 29609
864.735.0832
seb@buckingham.legal
Attorney for Appellants

Charles A. Krawczyk, Esq.
charley@cak-law.com
Attorney for Mount Vintage Plantation Homeowners Association, Inc.

October 27, 2025
Mount Pleasant, South Carolina

By: /s/ Anna S. McCann
Anna S. McCann, Esq.
Justin O'Toole Lucey, P.A.