

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

70307

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

RECEIVED

NOV 07 2013

SC Court of Appeals

Case No. 2009-CP-23-7707

R.C. Frederick Hanold, III and Rose F. Hanold, and Carol R. Mitchell and George P. Mitchell, Jr., ..... Respondents,

v.

Watson's Orchard Property Owners Association, Inc., a South Carolina Corporation, and Pelham Farm, LLC, a South Carolina Corporation, Legacy One, LLC, a South Carolina Corporation, SESP LLC, a South Carolina Corporation, an unknown Trustee of the Revocable Trust Agreement Dated March 19, 1996 established by James B. Stephens as amended, and unknown Jay Stephens and Mike Stephens as Co-Personal Representative of the Estate of James B. Stephens, .....Defendants,

Of whom Pelham Farm, LLC, a South Carolina Corporation, Legacy One, LLC, a South Carolina Corporation, an unknown Trustee of the Revocable Trust Agreement Dated March 19, 1996 established by James B. Stephens as amended, and unknown Jay Stephens and Mike Stephens as co-Personal Representative of the Estate of James B. Stephens, are the .....Appellants.

v.

Property Owners in Watson's Orchard Subdivision: N. Carter Poe, III; McNally Reeves, as Trustee of the Residual Trust under item Five of the Last Will and Testament of Hattie L. Reeves dated February 9, 1998; Janet B. Yusi; Lucy S. Tiller; James G. Stephens; Rachel P. McKaughan; Ramon J. Ashy and Jana Ashy; Christopher D. Scalzo and Heather V. Scalzo; Erma R. Rash, as Trustee of the Erma R. Rash Revocable Trust dated February 12, 2010; James Edwin Conrad, as Trustee of the James Edwin Conrad Living Trust dated September 7, 2010; Sue Lane Conrad; Horst H. H. Eschenberg and Floride C. Eschenberg; Caryl L. Clover, as Trustee of the Caryl L. Clover Revocable Living Trust Agreement dated May 12, 1999; Mary F.

Newell; Timothy M. Conroy and Elizabeth W. Conroy; Nathan Scolari; Joel Wells Norwood and Lynn Norwood; J. Lynn Shook; Juan Hernandez and Janice M. Pelletier; Scott P. Payne and Kathleen H. Payne; Joe G. Thomason and Dana L. Henry Thomason; Traci Segura; Cameron E. Smith and Joan B. Smith; Charles E. Howard and Sharon F. Howard; Penelope J. Galbraith; Meredith C. Vry; Delores B. Mitchell; Lisette M. Silva and Mary F. Colley; Ilona K. Alford and William G. Alford; George T. McLeod and Martha T. McLeod; Ronald S. Wilson and Robin E. Wilson; The Merrill J. Gildersleeve and Anore L. Novak Revocable Living Trust dated November 1, 1996; Anna Marie T. Azores and Kim O. Gococo; Ashley Westrope as Trustee of Martha Randolph Westrop Trust dated June 6, 1988; Cliff C. Jollie and Martha W. Jollie; David A. Saliny and Xiaoli Saliny; Lecia S. Franklin; Dean D. Varner and Deborah P. Varner; W. Frank Durham, Jr.; Christine M. Howard; Samuel P. Howard, Jr. and Jane H. Howard; Manfred E. Kramer and Jane J. Kramer; Mary J. Steele; James J. Barrett, III and Kimberly A. Barrett; Richard A. Herman and Patricia L. Herrman,..... Third-Party Defendants.

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**MOTION TO REQUIRE RESPONDENTS TO COMPLY  
WITH THE RULES REGARDING DESIGNATION OF  
MATERIALS FOR THE RECORD ON APPEAL**

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Petitioners, by and through their undersigned counsel, move for an order requiring Respondents to comply with the Rules concerning designation of materials to be included in the Record on Appeal.

Appellate Rule 209(a) provides that at the time a party serves his initial brief(s), he shall also serve a

Designation of Matter to be Included in the Record on Appeal **which shall set forth with specificity those parts of the transcript, pleadings, orders, exhibits, or other materials which he proposes to include in the record on appeal.** [Emphasis added.]

Rule 209(b) is explicit as to what may be designated:

(b) **Content:** The Designation must clearly identify what the party desires to have included in the Record on Appeal, and the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [see Rule 210(c)]. A party shall not include any matter in his Designation which is not relevant to the appeal. [Emphasis added.]

Rule 209(c) requires a certification by counsel as to compliance with the rule:

(c) **Certification.** The Designation shall be accompanied by a certificate signed by the party's counsel of record that the Designation contains no matter which is irrelevant to the Appeal. [Emphasis added.]

Rule 210(c), which is referenced in 209(b) above, makes clear that the Record may not include materials that were not presented to the trial court:

(c) **Content.** The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal. [Emphasis added.]

The "Additional Matters To Be Included In The Record On Appeal," served by Respondents on October 10, 2013 (copy attached as Exhibit A hereto for convenience), does not comply with these rules.

1. The Designation lists materials that were not "presented to the lower court or tribunal" during the course of the trial.

a. Appellants' counsel has raised this issue with Respondents' counsel. Respondents' counsel contends that these materials were submitted to the Court by letter dated September 14, 2012, with a motion that they be admitted. Respondents' counsel takes the position that, since "[w]e received no denial of our request[, he]

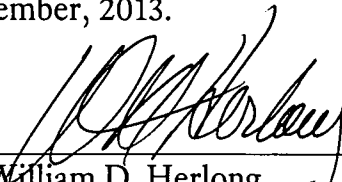
consider[s] them a part of the record.” (Email, Nov. 5, 2013, Exhibit B hereto.)

- b. However, September 14 is nine days after the conclusion of the trial (on September 5). And the record was not left open at the conclusion of the trial. It is very clear from the transcript that, as with any normal trial, the record is being closed. (See Tr. 280-87, Exhibit D hereto). Further, as the transcript shows, Appellants’ counsel went to great lengths to ensure that all necessary exhibits for Appellants had in fact been admitted and the trial court accepted the de bene esse deposition of Claire Manning to read. (Id.) Respondents counsel did not take these steps and made no request for the record to be left open for submission of materials.
- c. Moreover, there is no evidence that these documents Respondents’ counsel now seeks to have included in the Record on Appeal were in fact received by the trial court. The copy of the letter received by the undersigned (Exhibit C hereto) did not include the documents. The letter was sent without attachments. (It was folded in three parts and in a thin envelope.) And the trial court record does not include the documents. The record is clear that the trial court did not grant Respondents’ counsel request that the documents be admitted.

- d. Accordingly, these documents are outside the trial record and it is a violation of the Appellate Rules quoted above for them to be included in the Record on Appeal.
2. The Designation fails to list the documents with specificity so that Appellants' counsel can identify what is to be included in the Record on Appeal.
  - a. This defect is, in fact, what brought this issue to the undersign's staff's attention. When seeking to collect the materials for inclusion in the Record on Appeal, the undersigned's staff was unable to find the documents listed by Respondents' counsel in the court record (e.g., they are not identified by exhibit number).
3. The Designation does not include a certification by Respondents' counsel that it does not include materials not relevant to the appeal.

Accordingly, Appellants move this Court for an order compelling Respondents to comply with the Rules concerning the Record on Appeal and the designation of materials for the Record on appeal and to remove from their Designation any materials not presented to the trial court during the trial.

Respectfully submitted this 6<sup>th</sup> day of November, 2013.



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The Herlong Law Firm, LLC  
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Greenville, SC 29602-2003  
(864) 382-3801  
Attorney for Appellants

Other counsel of record:  
Randall S. Hiller  
P.O. Box 1716  
Greenville, SC 29602  
(864) 232-0026  
Attorney for Respondents

# Exhibit A

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

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Case No. 2009-CP23-7707

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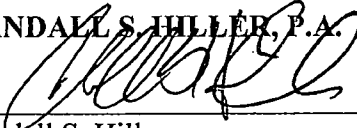
**ADDITIONAL MATTERS TO BE INCLUDED IN THE RECORD ON  
APPEAL**

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1. Deed from Lincoln of South Carolina, Inc. to Watson's Orchard Property Owners Association, Inc. recorded January 16, 1981.
2. October 1, 200 letter from Patrick H. Grayson, Jr. to Claire T. Manning.
3. Email from Ralph Aiken dated September 21, 2008.
4. Watson Orchard Property Owners Association Property Sale Advisory Committee meeting notes dated February 8, 2005.
5. Memorandum to Watson's Orchard Property Owners Association stock holders from Ralph Aiken dated July 21, 2008.
6. Letter from Patrick H. Grayson dated September 1, 2009 to Mr. Tom Dunlop.
7. Non Binding Indication of Support with attachment, undated, Bates number W001622.
8. Letter to Association Members from Ralph Aiken and Dorothy Brown dated April 15, 2006, Bates number W002047.
9. Votes of Jim, John, Jerry, Frank, Joel and Ralph, undated, Bates number W001471.
10. Vote options, handwritten note, undated, Bates number W000876.
11. WOPOA Committee meeting agenda, dated July 15, 2008, Bates number W001926-1927; W000969, W001891.
12. Certification of Ralph Aiken dated October 2, 2009.
13. Letter to Pat Grayson from James Robinson dated December 4, 1980.
14. Letter to Jim Stephens from Ray Lathan dated November 20, 1996, Bates number W002219.
15. Memo from Marion Seiffert to Claire Manning , Chicago Title dated November 7, 2008.
16. By-Laws of WOPOA.
17. Letter from WOPOA to neighbors dated November 16, 2009.
18. Handwritten WOPOA minutes dated May 29, 2001, Bates number W002056.
19. Letter from Langston Black to WOPOA dated June 15, 2010.
20. Memo from Ralph Aiken to WOPOA dated May 23, 2008.
21. Email from Ralph Aiken dated June 6, 2008.
22. Handwritten notes regarding land planning, undated. No Bates number.

23. Items for discussion by WOPOA Action Committee dated June 18, 2008.
24. Letter from Joel Norwood regarding market value estimates, undated.
25. Email from Ralph Aiken to various members dated July 30, 2008 with attachments.
26. Letter to WOPOA lot owners dated November 5, 2008.
27. Letter sent via email to Committee dated regarding zoning/votes (marked "Plaintiff's exhibit 13").
28. Letter dated November 16, 2009 to neighbors from WOPOA Board of Directors and Action Committee.
29. RelatiCorp proposal, undated.
30. Vote count Bates number W001471.
31. Handwritten vote count/notes Bates number W001542.
32. Handwritten notes regarding votes dated October 29, 2008.

**RANDALL S. HILLER, P.A.**



---

Randall S. Hiller  
S.C. Bar No.: 2513  
850-B Wade Hampton Blvd.  
Post Office Box 1716  
Greenville, South Carolina 29602  
(864) 232-0026  
Attorney for Respondent

# Exhibit B

**William Herlong**

---

**From:** Randall Hiller <rsh@rshpa.org>  
**Sent:** Tuesday, November 5, 2013 3:43 PM  
**To:** William Herlong  
**Subject:** RE: wopoa

William:

We submitted those documents to Judge Miller by letter dated September 14, 2012 for submission into the record and you were copied with the letter and exhibits. We received no denial of our request and consider them a part of the record. If you feel a motion to settle the record is appropriate then please go ahead and file.

Randall S. Hiller  
**Randall S. Hiller, P.A.**  
Attorneys at Law  
850 Wade Hampton Blvd.  
Greenville, S.C. 29609  
(864) 232-0026

**CONFIDENTIAL & PRIVILEGED**

Unless otherwise indicated or obvious from the nature of the following communication, the information contained herein is attorney-client privileged and confidential information/work product. The communication is intended for the use of the individual or entity named above. If the reader of this transmission is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error or are not sure whether it is privileged, please immediately notify us by return e-mail and destroy any copies, electronic, paper or otherwise, which you may have of this communication.

---

**From:** William Herlong [<mailto:William@herlonglaw.com>]  
**Sent:** Monday, November 04, 2013 12:39 PM  
**To:** Randall Hiller  
**Subject:** wopoa

Randy, we're starting to pull together the Record on Appeal and noticed that you have things in there that were not presented to the trial court. The rule says that is not allowed (Rule 210(c): "The Record shall not, however, including matter which was not presented to the lower court or tribunal.")

Can you please correct that and re-send/re-file your proposed matters for inclusion in the record.

William D. Herlong, Attorney at Law  
531 S. Main St., Ste. 201 | P.O. Box 2003 | Greenville, SC 29602-2003  
(864) 382-3801 | (864) 238-5111 cell | (888) 501-1278 fax

# Exhibit C

RANDALL S. HILLER, P.A.  
ATTORNEYS AT LAW  
850-B WADE HAMPTON BOULEVARD  
GREENVILLE, SOUTH CAROLINA 29609

RANDALL S. HILLER  
EMAIL: rsh@rshpa.org

(864) 232-0026  
FAX (864) 242-4692

September 14, 2012

The Hon. Edward W. Miller  
305 E. North St. , Ste. 219  
Greenville, SC 29601

*Re: Hanold, et al v. WOPOA, et al*  
*2009-CP-23-7707*

Dear Judge Miller:


During the course of the above trial I provided a copy of all potential Plaintiffs' exhibits to Mr. Herlong, which exhibits were either previously contained within the Court file by way of exhibits to summary judgment motion or exhibits to depositions.

With the exception of the last two exhibits, which were entered directly through the testimony of the Defendants' witnesses, I did not tender these into evidence based upon my continuing contention that parol or extrinsic evidence was not admissible to prove intent pursuant to the original declaration of covenants.

However, based upon the discussion held at the very conclusion of the case wherein you indicated you would accept all the evidence of the Defendant into the record and make a decision as to its admissibility or not after your review of the documents, I now wish to move the enclosed documents into evidence subject to that caveat.

I am enclosing herewith the trial exhibits which I ask the Court to accept into evidence under the same limited basis that the Defendants documents were accepted into evidence.

Yours very truly,



Randall S. Hiller

RSH\ak  
Enclosures.  
Cc: William Herlong, Esq. (via email)

# Exhibit D

MOTIONS AND MATTERS

1 case.

2 THE COURT: Yeah.

3 MR. HERLONG: Your Honor, Your Honor, why don't I read  
4 into the record the pages I was talking about specifically ---

5 THE COURT: You, that you acknowledge are not ---

6 MR. HERLONG: That I would, yeah, that I acknowledge are  
7 present opinion, present day ---

8 THE COURT: Okay.

9 MR. HERLONG: --- opinion, okay.

10 THE COURT: Alright.

11 MR. HERLONG: That would be page 20 lines 18 and 19; 21  
12 lines 7 and 8; 40 lines 4 through 11, uh, the rest of the  
13 deposition as I said before we would offer 50, I'm sorry, page  
14 5 lines 11 through page 7 lines 17; page 9 lines 3 through 9;  
15 page 11 lines one through 4; page 15 line 13 through 16, line  
16 3 I think; page 20 lines 21 through 24; page 35 lines 7  
17 through 36 23 and we'll just hand it up.

18 THE COURT: Well you gonna give me your little sheet so I  
19 know what you're -- can you make a copy a that?

20 MR. HERLONG: Yes, sir, I -- well actually why don't I  
21 make a better ---

22 THE COURT: A legible copy?

23 MR. HERLONG: Yeah, it's kinda messy.

24 MR. HILLER: I had to work off a that one.

25 MR. HERLONG: It's very messy, it's written one of those

MOTIONS AND MATTERS

1 great big pens. Lets, see ---

2 THE COURT: Just take your time, no hurry.

3 (Pause.)

4 (Whereupon, counsel handed the deposition to the Court.)

5 THE COURT: Okay. Alright, anything else?

6 MR. HERLONG: Your Honor, I've got one little tiny  
7 excerpt from Mr. Hanold's deposition that I would like to read  
8 in.

9 (Whereupon, a discussion was held off the record.)

10 MR. HERLONG: Your Honor, what -- did I -- I might have  
11 given you Mr. Hanold's right then, I'm sorry.

12 MR. HILLER: Good.

13 (Laughter.)

14 (Whereupon, a discussion was held off the record.)

15 MR. HERLONG: Line 16 page, uh, I'm sorry, page 16, line  
16 13 through 15 which just says ---

17 MR. HILLER: Well ask the question and then give me an  
18 opportunity ---

19 MR. HERLONG: Okay.

20 MR. HILLER: --- to object.

21 MR. HERLONG: Question: "Okay, I'll hear about that and  
22 so when did you move into the Watson's Orchard Subdivision?

23 "It would be 2004," that's that.

24 Uh, beginning page starting at line 18, question, "And  
25 when you bought your property did anybody make you any

MOTIONS AND MATTERS

1 promises with regard to the property across the road, the  
2 Pelham Road tract or the property along Haywood Road, the  
3 Haywood Road tract, did anybody make any promises to you?"

4 MR. HILLER: Oh, alright, I object not because I really  
5 care but because it's ---

6 THE COURT: Hears ---

7 MR. HILLER: --- irrelevant and, yeah, we we aren't  
8 bringin' a claim based on any kinda promissory estoppel or  
9 anything else. The covenant clearly say that any homeowner  
10 can bring an action to enforce the lawsuit, I mean, the the  
11 covenants and and ---

12 THE COURT: Okay.

13 MR. HILLER: --- he's a homeowner so and and, you know,  
14 he he wasn't but but it's still irrelevant and anything beyond  
15 that's irrelevant.

16 MR. HERLONG: His, uh, shall I proceed, Your Honor?

17 THE COURT: Yeah, go ahead.

18 MR. HERLONG: --- answer, "Not that I recall."

19 Question: "Did you buy your property or reliance on  
20 anything that anybody said with respect to those properties?"

21 Answer: "Not that I recall, no."

22 And then down to line 8, page 29, "Do you know where he  
23 got," talkin' about his attorney, "he got the information to  
24 use the term "buffer", do you have any idea about that?"

25 Answer: "Where he got it. no."

MOTIONS AND MATTERS

1 "Do you know where the term comes from?"

2 "Yes."

3 "Today you do?"

4 "Yeah."

5 "Did you know anything about that when you moved into  
6 Watson's Orchard?"

7 Answer: "Not when I moved in". That's it, Your Honor.

8 THE COURT: Okay. Alright.

9 MR. HERLONG: Rest of our case.

10 THE COURT: No reply?

11 MR. HILLER: No, sir.

12 THE COURT: Okay. Well clearly I'm not gonna rule from  
13 the bench, gotta re -- I've got to read this deposition, go  
14 through everything. Has this caused a big rift in the  
15 subdivision, ---

16 MR. HILLER: Uh, two thirds ---

17 THE COURT: --- hope ---

18 MR. HILLER: --- of 'em hate the other third ---

19 THE COURT: Well and ---

20 MR. HILLER: --- and vice versa.

21 THE COURT: --- and I'm sorry that's happened ---

22 (Whereupon, a discussion was held off the record.)

23 THE COURT: --- but I I hope that, uh, folks can repair  
24 their relationships and and move forward and I will review all  
25 this and and come to decision sometime in the near future.

MOTIONS AND MATTERS

1 Okay. Thank you very much. You need to tell me anything? I  
2 mean, ya'll wanna ---

3 MR. HERLONG: Well, I ---

4 THE COURT: You wanna make closin' statements?

5 UNIDENTIFIED WOMAN: Yes.

6 MR. HERLONG: Not a big one ---

7 MR. HILLER: No.

8 MR. HERLONG: --- but maybe a little one.

9 THE COURT: Alright, go.

10 MR. HILLER: What can we do? Can we just do a post-  
11 trial brief?

12 THE COURT: Short one.

13 MR. HERLONG: A short one's fine.

14 MR. HILLER: Forty, fifty pages?

15 MR. HERLONG: Yeah, sixty, seventy pages.

16 (Laughter.)

17 MR. HILLER: Yeah, ---

18 MR. HERLONG: Short one's fine, Your Honor.

19 MR. HILLER: --- I think he's got one prepared, uh, uh,  
20 but but I ---

21 THE COURT: How can you have ---

22 MR. HILLER: --- there was, ---

23 THE COURT: --- it prepared ----

24 MR. HILLER: --- there was some testimony I expected that  
25 didn't happen and there was some testimony I didn't expect

MOTIONS AND MATTERS

1 that did happen so it needs a little tweaking plus it it  
2 it it ---

3 THE COURT: Okay, ya'll do a post-trial brief if ya'd  
4 like, limit it to, uh, less than ten pages.

5 MR. HILLER: Alright.

6 THE COURT: Is that good?

7 MR. HERLONG: Yes. Your Honor, I'd like to double check  
8 with her make sure everything got admitted that shoulda been  
9 and, uh, ---

10 THE COURT: Okay.

11 MR. HERLONG: --- just, uh, double check our  
12 housekeeping.

13 (Whereupon, a discussion was held off the record.)

14 MR. HERLONG: Your Honor, if I might interrupt you for  
15 one second. Um, I believe all the exhibits were admitted  
16 except for those two that were just marked for identification  
17 involvin' your, that lot with you.

18 MR. HILLER: You mean the five lots that I own, ---

19 MR. HERLONG: Yeah, exactly.

20 MR. HILLER: --- that I bought ---

21 MR. HERLONG: Yeah, exactly.

22 MR. HILLER: --- and then transferred to my corporation?

23 MR. HERLONG: Exactly.

24 MR. HILLER: Right, ---

25 MR. HERLONG: I think everything was admitted ---

MOTIONS AND MATTERS

1 MR. HILLER: --- that was just ---

2 MR. HERLONG: --- other than that. Are you, are you in  
3 agreement on that, Randy?

4 THE COURT: Over over his objection.

5 MR. HERLONG: Over his objection.

6 MR. HILLER: No, you actually sustained that objection.

7 I recall ---

8 THE COURT: Yeah, yeah, I did, ---

9 MR. HILLER: Okay.

10 THE COURT: --- I did.

11 MR. HERLONG: We're talkin' about everything else,  
12 the ---

13 MR. HILLER: Oh, yeah, everything else was over my  
14 objection.

15 MR. HERLONG: Okay, alright, that ---

16 MR. HILLER: That's the ---

17 MR. HERLONG: --- sounds good.

18 MR. HILLER: --- only one I won, right?

19 THE COURT: Which one, which one were in?

20 MR. HERLONG: It was ---

21 MR. HILLER: Somethin' somethin' vs. Washington ---

22 MR. HERLONG: ---, was it 9 ---

23 MR. HILLER: --- Holdings, ---

24 MR. HERLONG: --- and 10?

25 MR. HILLER: --- Washington Holdings ---

MOTIONS AND MATTERS

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COURT REPORTER: Nine and ten.

MR. HILLER: --- uh, ---

MR. HERLONG: Nine and ten we do need to have 'em in here. Oh, here it is.

COURT REPORTER: Yep.

MR. HILLER: What are ya'll showin' as Number 3?

(Whereupon, a discussion was held off the record.)

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Property Owners in Watson's Orchard Subdivision: N. Carter Poe, III; McNally Reeves, as Trustee of the Residual Trust under item Five of the Last Will and Testament of Hattie L. Reeves dated February 9, 1998; Janet B. Yusi; Lucy S. Tiller; James G. Stephens; Rachel P. McKaughan; Ramon J. Ashy and Jana Ashy; Christopher D. Scalzo and Heather V. Scalzo; Erma R. Rash, as Trustee of the Erma R. Rash Revocable Trust dated February 12, 2010; James Edwin Conrad, as Trustee of the James Edwin Conrad Living Trust dated September 7, 2010; Sue Lane Conrad; Horst H. H. Eschenberg and Floride C. Eschenberg; Caryl L. Clover, as Trustee of the Caryl L. Clover Revocable Living Trust Agreement dated May 12, 1999; Mary F.

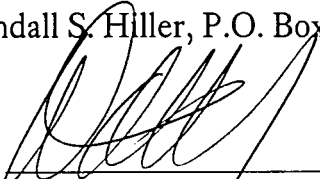
Newell; Timothy M. Conroy and Elizabeth W. Conroy; Nathan Scolari; Joel Wells Norwood and Lynn Norwood; J. Lynn Shook; Juan Hernandez and Janice M. Pelletier; Scott P. Payne and Kathleen H. Payne; Joe G. Thomason and Dana L. Henry Thomason; Traci Segura; Cameron E. Smith and Joan B. Smith; Charles E. Howard and Sharon F. Howard; Penelope J. Galbraith; Meredith C. Vry; Delores B. Mitchell; Lisette M. Silva and Mary F. Colley; Ilona K. Alford and William G. Alford; George T. McLeod and Martha T. McLeod; Ronald S. Wilson and Robin E. Wilson; The Merrill J. Gildersleeve and Anore L. Novak Revocable Living Trust dated November 1, 1996; Anna Marie T. Azores and Kim O. Gococo; Ashley Westrope as Trustee of Martha Randolph Westrop Trust dated June 6, 1988; Cliff C. Jollie and Martha W. Jollie; David A. Saliny and Xiaoli Saliny; Lecia S. Franklin; Dean D. Varner and Deborah P. Varner; W. Frank Durham, Jr.; Christine M. Howard; Samuel P. Howard, Jr. and Jane H. Howard; Manfred E. Kramer and Jane J. Kramer; Mary J. Steele; James J. Barrett, III and Kimberly A. Barrett; Richard A. Herman and Patricia L. Herrman, ..... Third-Party Defendants.

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**PROOF OF SERVICE  
FOR MOTION TO REQUIRE RESPONDENTS TO COMPLY  
WITH THE RULES REGARDING DESIGNATION OF  
MATERIALS FOR THE RECORD ON APPEAL**

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I hereby certify that I have served the MOTION TO REQUIRE RESPONDENTS TO COMPLY WITH THE RULES REGARDING DESIGNATION OF MATERIALS FOR THE RECORD ON APPEAL on respondents by depositing a copy of each in the United States Mail, postage paid, addressed to their attorney of record, Randall S. Hiller, P.O. Box 1716, Greenville, SC 29602 on November 6, 2013.



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(864)-382-3801  
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