

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

106499

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS
THE HONORABLE ROBERT J. BONDS
CIRCUIT COURT JUDGE

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SC Court of Appeals

APPELLATE CASE NO. 2025-000384
CIVIL ACTION NO. 2022-CP-07-2483

Roland Bernardon and Louise Bernardon,

APPELLANTS,

versus

Mark Damiano, Ellery K. Damiano, Sea Pines Real Estate at the Beach Club,
Robert Reichel, and John McMahon,

DEFENDANTS,

of which Mark Damiano, Ellery K. Damiano, Sea Pines Real Estate at the
Beach Club, and Robert Reichel are the

RESPONDENTS.

**MOTION TO STRIKE APPELLANTS' DESIGNATION
OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL**

Respondents Mark Damiano, Ellery K. Damiano, Sea Pines Real Estate at the Beach Club, and Robert Reichel move to strike certain designated matters from the Designation of Matter to be Included in the Record on Appeal submitted by Appellants Roland and Louise Bernardon on August 22, 2025 to the Court because these matters were not presented to the circuit court below.

Rule 210(c) of the South Carolina Appellate Court Rules provides the "Record shall not, however, include matter which was not presented to the lower court or tribunal."

Appellants have designated the following materials which were not presented to the circuit court:

1. All exhibits to the deposition of Louise Bernardson;
2. The entire deposition of Robert Reichel and all exhibits thereto;
3. The entire deposition of Jill Murphy and all exhibits thereto;
4. The entire deposition of Mark Damiano and all exhibits thereto;
5. The entire deposition of Ellery Damiano and all exhibits thereto;
6. The entire deposition of Peter Geary and all exhibits thereto;
7. The entire deposition of Adam Beck and all exhibits thereto;
8. The entire deposition of John McMahon and all exhibits thereto; and
9. The entire deposition Adam Beck and all exhibits thereto.

The entirety of these materials were not presented to and considered by the circuit court below.

The following is a list of the exhibits which were submitted to the circuit court on summary judgment briefing by the parties:

Exhibits Supporting the Motions for Summary Judgment filed by the Respondents on January 29, 2024 and January 30, 2024:

- A. Prior MLS listings;
- B. 2016 Coastal Appraisal;
- C. January 2022 Coastal Appraisal;
- D. Beaufort County Tax Records;
- E. January 19, 2022 MLS listing;
- F. Deposition Excerpts of Louise Bernardon;
- G. Text Message re: back up offer;

- H. Letter to Mr. Reichel to Appellants' counsel;
- I. February 5, 2022 MLS;
- J. Contract of Sale;
- K. March 2, 2022 Appraisal;
- L. DocuSign Metadata;
- M. February 7, 2022 e-mail;
- N. Appellants' Complaint;
- O. Entire Deposition of Louise Bernardon (excluding exhibits); and
- P. Case Law

Exhibits Supporting Appellants' Memorandum in Opposition to Damiano Respondents' Motion for Summary Judgment filed December 11, 2024:

- A. Peter C. Geary Affidavit;
- B. Deposition Excerpts of Adam Beck (pp. 10-33 only);
- C. MLS listing data;
- D. Deposition Excerpts of Mark Damiano (pp. 2-17 only);
- E. Deposition Excerpts of Ellery Damiano (pp. 22-33 only);
- F. Deposition Excerpts of Robert Reichel (pp. 58-59 only); and
- G. Deposition Excerpts of Roland Bernardon (pp. 59-60).

Exhibits Supporting Appellants' Memorandum in Opposition to Sea Pines Respondents' Motion for Summary Judgment filed December 11, 2024:

- A. Peter C. Geary Affidavit;
- B. Deposition Excerpts of Adam Beck (pp. 10-33 only);
- C. MLS listing data;
- D. Deposition Excerpts of Mark Damiano (pp. 2-17 only);
- E. Deposition Excerpts of Ellery Damiano (pp. 22-33 only);
- F. Deposition Excerpts of Robert Reichel (pp. 58-59 only);
- G. Entire Deposition of Roland Bernardon (excluding exhibits); and
- H. Jill Murphy E-mails.

Respondents' counsel did confer with Appellants' counsel prior to making this motion, but a resolution has not yet been reached.

Accordingly, Respondents respectfully request this Court to strike the matter designated by Appellants which was not presented to the circuit court and require Appellants to designate and include in the Record on Appeal only that material presented to the circuit court as required by Rule 210(c) of the South Carolina Appellate Court Rules.

Respectfully submitted,

/s Carmen V. Ganjehsani

David A. Anderson (S.C. Bar No. 11550)

Carmen V. Ganjehsani (S.C. Bar No. 73515)

Hunter W. Adams (S.C. Bar No. 103526)

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Attorneys For Respondents

Mark Damiano, Ellery K. Damiano,

Sea Pines Real Estate at the Beach Club,

and Robert Reichel

November 21, 2025.

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CERTIFICATE OF SERVICE

I, the undersigned, attorney for Respondents, Mark Damiano, Ellery K. Damiano, Sea Pines Real Estate at the Beach Club, and Robert Reichel, do hereby certify that I have this date served the foregoing Motion to Strike Appellants' Designation of Matter to be Included in the Record on Appeal, dated November 21, 2025, by personally serving the same pursuant to Section (d)(1) of the Supreme Court's Amended Order dated April 24, 2024, on the following counsel of record using the primary email addresses listed in the Attorney Information System (if applicable):

Michael W. Mogil
Mogil Law Firm
PO Box 5925
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Thomas J. Finn
Finn Law Firm, PC
PO Box 6003
Hilton Head Island, SC 29938
thomas@finnlawfirmpc.com
Attorneys for Appellants

A copy of the sent email is enclosed with this Certificate of Service.


/s Carmen V. Ganjehsani
Carmen V. Ganjehsani
S.C. Bar No. 73515
RICHARDSON, PLOWDEN & ROBINSON, PA
Post Office Drawer 7788
Columbia, South Carolina 29202
(803) 771-4400
Attorneys For Respondents

Date: November 21, 2025.

From: [Carmen Ganjehsani](#)
To: "mmogil@mogillaw.com"; "thomas@finnlawfirm.com"
Cc: [David Anderson](#); [Hunter Adams](#)
Subject: RE: 2025-00384 Bernardon v. Damiano
Date: Friday, November 21, 2025 3:00:00 PM
Attachments: [2025-000394 Bernardon v. Damiano et al. \(Mtn. To Strike DOM\) \(3966261\).pdf](#)
[2025-000384 Bernardon v. Damiano et al. \(Respondent DOM\) \(3966252\).pdf](#)
[2025-000384 Bernardon v. Damiano et al. \(Int. Brief of Respondents\) \(3966237\).pdf](#)

Please find served upon you the Initial Respondents' Brief, the Respondents' Designation of Matter to be Included in the Record on Appeal, and the Motion to Strike Appellants' Designation of Matter to be Included in the Record on Appeal on behalf of Respondents.

Thank you,
Carmen Ganjehsani

HOME	VCARD	LOCATION
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November 21, 2025

Filed via e-mail (ctappfilings@sccourts.org) and hand delivery

The Honorable Jenny Abbott Kitchings
Clerk of Court, S.C. Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

Re: Roland Bernardon v. Mark Damiano
Appellate Case No. 2025-000384
RPR File No.: 010203-00001

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Dear Ms. Kitchings:

Enclosed for filing is the Motion to Strike Appellants' Designation of Matter to be Included in the Record on Appeal on behalf of Respondents Sea Pines Real Estate at the Beach Club, Ellery K. Damiano, Mark Damiano, and Robert Reichel in the above-referenced case, along with our Certificate of Service. We are also filing this Motion electronically with the Court of Appeals via e-mail at ctappfilings@sccourts.org pursuant to Section (b)(2) of the Supreme Court's April 24, 2024 Order.

Also enclosed is our firm's check in the amount of \$50.00 for the filing fee in this matter.

We have served this Motion for Extension on counsel of record upon their primary email addresses listed in the Attorney Information System.

Should you have any questions regarding this matter, please do not hesitate to call.

Sincerely,

/s Carmen V. Ganjehsani

Carmen V. Ganjehsani

Encs.

The Honorable Jenny Abbott Kitchings

November 21, 2025

Page 2

cc: Mike W. Mogil (mmogil@mogillaw.com)
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Via Hand-Delivery
To: Court of Appeals