

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

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Dec 29 2025

SC Court of Appeals

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

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 McMahan,

DEFENDANTS,

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

RESPONDENTS.

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

A party's Designation of Matter to be Included in the Record on Appeal "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." Rule 209(b), SCACR. The Record on Appeal may not "include matter which was not presented to the lower court or tribunal." Rule 210(c), SCACR.

In their opposition to the Respondents' Motion to Strike, the Appellants acknowledge that they have designated material that was not presented to the circuit court below in conjunction with the motions for summary judgment, including the entirety of the depositions of Mark Damiano, Ellery Daniano, Adam Beck and Robert Reichel (only excerpts of these aforementioned depositions were submitted to the circuit court) and the depositions of John McMahan, Jill Murphy, and Peter Geary.

The Appellants argue that the entire depositions of Mark Damiano, Ellery Daniano, Adam Beck and Robert Reichel should be included in the Record on Appeal because excerpts were submitted to the circuit court. The Appellants contend Rule 210(c) expressly provides that where excerpts of testimony are referenced as part of the record in proceedings below, the entire transcript should be and is a component of the Record on Appeal. Rule 210(c) does not provide as such and only states "[w]here a portion of a page of the trial transcript, or a page of an exhibit or document, is to be included in the Record on Appeal, the entire page shall be included." Rule 210(c) does not permit the full transcript of a deposition to be included in the Record on Appeal where only an excerpt of the deposition was presented to the circuit court for review and consideration.

Therefore, only the excerpts of the depositions of Mark Damiano, Ellery Daniano, Adam Beck and Robert Reichel which were presented to the circuit court should be included in the Record on Appeal. The full transcripts of these deponents should not be included.

The Appellants concede no deposition testimony of John McMahan, Jill Murphy, and Peter Geary was presented to the circuit court. The Respondents do not consent to the

inclusion of this testimony in the Record on Appeal because it was never considered by the circuit court.

Accordingly, the Respondents respectfully request this Court to strike the matter designated by the Appellants which was not presented to the circuit court and require the 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, including limiting deposition testimony to that which was submitted as exhibits in support and in opposition to the motions for summary judgment as indicated in the Respondents' Motion to Strike.

Respectfully submitted,

/s/ Carmen V. Ganjehsani

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Attorneys For Respondents

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

December 29, 2025.

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 Reply to Appellants' Opposition to the Motion to Strike Appellants' Designation of Matter to be Included in the Record on Appeal, dated December 29, 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):

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


/s Carmen V. Ganjehsani
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Date: December 29, 2025.

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Subject: 2025-00384 Bernardon v. Damiano
Date: Monday, December 29, 2025 11:28:00 AM
Attachments: [2025-000384 Bernardon v. Damiano \(Reply to Opp. to Mtn to Strike\) \(4000127\).pdf](#)

Please find served upon you the Reply to the Opposition to the Motion to Strike Appellants' Designation of Matter to be Included in the Record on Appeal on behalf of Respondents.

Thank you,
Carmen Ganjehsani

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