

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Patrick Cleburne Fant, III, Circuit Court Judge

Appellate Case No. 2025-002427
Circuit Court Case No. 2024-CP-23-06777

Estate of Virginia Parsons, by and through
her Personal Representative, Sandra P. White,
Individually and on behalf of statutory
beneficiaries, Respondent,

v.

Atlas Senior Living, LLC; Atlas Senior
Living II, LLC; AFF18 Oakview Park ALF,
LLC d/b/a Oakview Park Assisted Living;
AFF18 Oakview Park PropCo, LLC; AFF18
Greenville Borrower, LLC; Oakview Park
Developer, LLC, Appellants.

**APPELLANTS' MOTION TO STRIKE MATERIALS
DESIGNATED BY RESPONDENT FOR INCLUSION
IN THE RECORD ON APPEAL**

Appellants respectfully move this Court pursuant to Rule 209(b) and Rule 210(c), SCACR, for an order directing that the following be excluded from the Record on Appeal when it is prepared:

1. Exhibits 1 and 2 to Respondent's memorandum in opposition to Appellants' motion to compel arbitration.

These materials have been improperly designated by Respondent for inclusion in the Record on Appeal because they are irrelevant to this appeal and were not considered by or properly before the Circuit Court when it issued the Orders which are the subject of this appeal.

At the August 28, 2025 hearing, Appellants moved to strike these two exhibits, which were two affidavits filed approximately an hour and fifteen minutes before the hearing was scheduled to begin, because they were not served more than two days prior to the hearing, as required by Rule 6(d), SCRCF. (Exhibit 2, Hearing Transcript, pages 19-20). The Court granted the motion to strike. (Exhibit 2, Hearing Transcript, pages 19-20, 23).

Attached to this Motion as Exhibit 1 is the Respondent's Memorandum in Opposition to Appellants' Motion to Compel Arbitration. On page 23 of Exhibit 1, Respondent identified Exhibits 1 and 2 to the memorandum as the two affidavits at issue here. Attached to this Motion as Exhibit 2 is the August 28, 2025 hearing transcript.

In addition to the exclusion of these documents from the Record on Appeal, Appellants also respectfully request an order from this Court directing that the excluded materials not be referred or cited to in the Respondent's brief.

In the alternative, and should this Court permit the inclusion of these affidavits in the Record on Appeal, Appellants respectfully request leave to include affidavits of their own in the Record on Appeal in response to the affidavits that are the subject of this motion. If the Circuit Court had denied Appellants' motion to

strike, Appellants would have asked the Circuit Court to continue the hearing to permit the submission of responsive affidavits. Appellants relied on the Circuit Court's ruling granting Appellants' motion to strike.

The Appellants further request that all deadlines regarding the filing and service of the Record on Appeal and Final Briefs be held in abeyance until this motion is adjudicated.

Respectfully Submitted,

HOLCOMBE BOMAR, PA

s/Timothy Maio
Timothy Maio (S.C. Bar No. 105171)
PO Box 1897
Spartanburg, SC 29304
(864) 594-5300
tmaio@holcomebomar.com

Counsel for Appellants

April 13, 2026
Spartanburg, South Carolina

RECEIVED
Apr 13 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Patrick Cleburne Fant, III, Circuit Court Judge

Appellate Case No. 2025-002427
Circuit Court Case No. 2024-CP-23-06777

Estate of Virginia Parsons, by and through
her Personal Representative, Sandra P. White,
Individually and on behalf of statutory
beneficiaries, Respondent,

v.

Atlas Senior Living, LLC; Atlas Senior
Living II, LLC; AFF18 Oakview Park ALF,
LLC d/b/a Oakview Park Assisted Living;
AFF18 Oakview Park PropCo, LLC; AFF18
Greenville Borrower, LLC; Oakview Park
Developer, LLC, Appellants.

PROOF OF SERVICE

I certify that I have served the Appellants' Motion to Strike Materials Designated by Respondent for Inclusion in the Record on Appeal, and accompanying exhibits, on all attorneys of record, by sending it by email on April 13, 2026, to the following:

Gary W. Poliakoff (S.C. Bar No. 4488)
Raymond P. Mullman, Jr. (S.C. Bar No. 8662)

Poliakoff & Associates, P.A.
215 Magnolia Street
P.O. Box 1571
Spartanburg, SC 29304
atty@gpoliakoff.com
rmullmanjr@gmail.com

AND

Jordan C. Calloway
McGowan, Hood, Felder & Phillips, LLC
1539 Health Care Drive
Rock Hill, SC 29732
(803) 327-7800
jcalloway@mcgowanhood.com

Counsel for Respondent

Respectfully Submitted,

HOLCOMBE BOMAR, PA

s/Timothy Maio
Timothy Maio (S.C. Bar No. 105171)
PO Box 1897
Spartanburg, SC 29304
(864) 594-5300
tmaio@holcomebomar.com

Counsel for Appellants

April 13, 2026
Spartanburg, South Carolina