

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE BERKELEY COUNTY
COURT OF COMMON PLEAS
The Honorable Jennifer B. McCoy
Circuit Court Judge

Appellate Case No. 2024-002051

The Oaks at Riverside South Property Owners Association, Inc.; Colette Alderson; Leland Atkins Trust; Bette Atkins Trust; Michael Dorton; Emily Dorton; James VanCampen; Celia VanCampen; Janet Fiorenza; Richard Labaudiniere; Alley Oak, LLC; Lesene Hudson; and Asbury Hudson, Plaintiffs,

OF WHOM

The Oaks at Riverside South Property Owners Association, Inc. is the Appellant,

vs.

SKA Consulting Engineers, Inc., Respondent.

**APPELLANT’S RETURN TO RESPONDENT’S MOTION TO COMPEL APPELLANT
TO ORDER TRIAL TRANSCRIPT AND TO STAY BRIEFING DEADLINES**

Appellant The Oaks at Riverside South Property Owners Association, Inc. (the “Association”) returns to the Motion to Compel Appellant to Order Trial Transcript and to Stay Briefing Deadlines (the “Motion”) served by Respondent SKA Consulting Engineers, Inc. (“SKA”) on September 16, 2026, and respectfully requests that the Motion be denied.

INTRODUCTION

The Motion asks the Court to compel Appellant to do something it did twenty-one months ago. Appellant ordered the transcript of the entire trial, and the transcript of the post-trial hearing,

on December 6, 2024, within ten days of serving its notice of appeal, as Rule 207(a)(1), SCACR, requires. SKA attaches those orders to its own Motion. What Appellant has been unable to do is receive the trial transcript, because the assigned court reporter never produced it despite four extensions, six overdue letters from this Court, and repeated requests from Appellant's counsel, and because the audio she eventually turned over to Court Administration is, by the account of the transcription service to which Court Administration reassigned the work, so poor that "[a] lot of content will be lost." The Motion mentions none of the extensions, the overdue letters, or Appellant's requests.

The Motion should also be denied for a second, independent reason. The transcript it seeks is not necessary to decide this appeal. The only issue on appeal is whether the circuit court erred in granting SKA's motion for setoff under S.C. Code Ann. § 15-38-50 and reducing the Association's \$1,619,828.80 jury verdict to zero. The circuit court's order reducing the verdict rests on the pleadings, on settlement documents the court reviewed in camera, and on the verdict. Every part of the record bearing on that ruling, including exhibits, either already exists in certified transcript form or is available from the Berkeley County Clerk of Court. SKA did not appeal or cross-appeal from the verdict, and it identifies no testimony from the remaining trial days that has any bearing on the setoff question. Its request would add additional costs and delays to an appeal already delayed nearly two years by the court reporter's failure, in exchange for a transcript that, by the transcriber's own account, would be riddled with gaps.

Appellant's position is straightforward. The transcript has been ordered, twice, and Appellant will instruct Legal Eagle to complete the remaining trial days to the extent the audio permits. What Appellant asks is that SKA bear the cost of the portions it insists on that have nothing to do with the setoff issue, that the gaps in the reporter's audio not be held against

Appellant, and that the briefing schedule run from Legal Eagle’s delivery rather than remain open-ended.

FACTUAL BACKGROUND

1. The case was tried to a jury before the Honorable Jennifer B. McCoy over eight days, July 22 through 26 and July 29 through 31, 2024. On July 31, 2024, the jury returned a verdict finding SKA negligent, finding SKA’s negligence was a proximate cause of Plaintiffs’ damages, and awarding actual damages of \$1,619,828.80 to the Association and smaller amounts to the individual Plaintiffs. The jury found SKA was not grossly negligent and answered “no” on whether SKA’s conduct was willful, wanton, or reckless.

2. SKA moved for setoff under S.C. Code Ann. § 15-38-50. By order filed October 10, 2024, the circuit court granted the motion as to the Association. The court stated that it had “considered the arguments of counsel for the parties and considered Plaintiffs’ settlement documents submitted for in-camera review,” found that the Association had received \$5,000,000 in pretrial settlements from the other defendants, found that “[t]he settlement amount paid was for the same claims and for the same injuries for which it received a verdict against SKA,” and concluded that “[t]he jury award is entirely eclipsed by the pretrial settlements and SKA owes zero for the verdict in favor of the POA.” Ex. D. The order cites the Third Amended Complaint and the settlement documents. It does not cite any trial testimony. The court denied the Association’s Rule 59(e), SCRCP, motion by Form 4 orders filed October 29 and November 5, 2024.

3. The Association served its Notice of Appeal on November 26, 2024. SKA did not appeal or cross-appeal from the verdict, the judgment, or any ruling below.

4. On December 6, 2024, within ten days of the notice of appeal, Appellant’s counsel ordered the transcript of the entire trial from Ms. Williams using the Court-approved Transcript

Request Form, designating the “Entire hearing” for July 22 through 26 and July 29 through 31, 2024, and agreeing to pay the per-page charge under Rule 607, SCACR. The same day, Appellant’s counsel ordered the transcript of the September 13, 2024 WebEx hearing from Court Administration. Both orders were served on SKA’s counsel, Court Administration, and the Clerk of this Court. Motion, Ex. A. Ms. Williams acknowledged the order and sent her contract letter on December 11, 2024.

5. Ms. Williams never delivered the trial transcript. Court Administration granted her three extensions, to April 13, May 13, and June 13, 2025, and the Chief Justice approved a fourth, to July 13, 2025. In her fourth extension request she reported that she had completed 723 of an estimated 1,100 pages. After the fourth extension expired, she wrote to counsel and this Court on August 12, August 29, and September 25, 2025 that delivery was imminent, projecting August 22, then September 15, then October 6, 2025. None of those dates was met. On September 25, 2025, she wrote to the Clerk: “The parties in this action are in no way responsible for the late delivery of this transcript.” Ex. E. On October 22, 2025, she wrote that the transcript “has not been completed and, again, at no fault of the parties or their clients,” and that she was on medical leave. Ex. F. On December 2, 2025, she reported that she was on medical leave until January 2026. On February 2, 2026, her automatic reply stated that she would be on medical leave until April 21, 2026.

6. This Court sent Appellant’s counsel overdue-transcript letters on February 20, May 23, June 24, September 25, and December 2, 2025, and January 23, 2026. Appellant’s counsel responded to the Court’s letters and filed status letters with the Court on February 28, July 7, July 28, and October 20, 2025, and February 2, 2026. In the October 20, 2025 and February 2, 2026 letters, Appellant’s counsel asked this Court and Court Administration to “request of the Court Reporter to produce whatever portions of the transcript that currently exist” so that the appeal

could move forward. Ex. H. SKA's counsel was copied on every one of these communications and never objected to, or joined, any of them.

7. In late April 2026, with the transcript still undelivered, the Association's representative submitted a renewed request through Court Administration's transcript request system, which was narrowed at the Association's direction to the entire July 22 through 31, 2024 trial. On June 4, 2026, Court Administration reassigned the request to Legal Eagle, Inc. and uploaded Ms. Williams's audio and notes. The Association's representative paid Legal Eagle's required deposit.

8. On August 17, 2026, roughly ten weeks after the reassignment, Legal Eagle reported to the Association's representative:

Our Transcriber has been working hard on this one. However, there is some things we need to notate. The court reporter who was assigned to this job provided poor main and backup audio to the SCJB. Notes were also insufficient and there are sections of scattered audio that he is unable to fit into the timeline due to ill-named files. Our Transcriber also noted that there was a lot of talking over and he could not discern who was speaking. Both Harvey and Mr. Elliott were not talking into the mike because they kept walking away. At some point, the witness's mike was dead for an entire day, and no one had addressed it. Our Transcriber cannot meet this deadline with the quality of this Audio. Let us know how you would like to proceed.

Ex. A (Aug. 17, 2026 email from A. Garraud, Legal Eagle).

9. The undersigned spoke with Kevin Dehlinger, Legal Eagle's Director of Operations, on August 18, 2026 to determine what portion of the record could actually be produced. Because the audio for the jury charge, the verdict, and the proceedings after the verdict was usable, and because those are the portions of the trial that bear on the setoff issue, the undersigned asked Legal Eagle to prioritize those portions and to confirm that the trial exhibits were correctly identified. Mr. Dehlinger confirmed by email of August 19, 2026 to Appellant's

counsel and the Association’s representative that Legal Eagle would deliver certified transcripts of the jury charge, verdict, and post-verdict proceedings, together with the completed portions of July 22 and 23, and that “[i]f it is determined that the rest of the trial is needed, we will work to complete the record although as we mentioned, [a] lot of content will be lost due to missing audio files, poor audio, speakers moving away from the microphones, and untimely muted microphones.” Ex. B.

10. On August 24, 2026, Legal Eagle delivered certified transcripts of the July 22, 2024 proceedings (107 pages, including jury selection), the July 23, 2024 proceedings (235 pages), and the jury charge and verdict of July 31, 2024 (32 pages). Ex. C. The transcripts of the first two trial days contain roughly 170 “(indiscernible)” notations and dozens of cross-talk notations. The jury charge and verdict transcript contains none. The transcript of the September 13, 2024 post-trial hearing has also been received, as SKA acknowledges. Motion at 2.

11. On September 2, 2026, the Clerk wrote counsel that “[i]t appears the transcript has been completed and delivered in this matter” and that Appellant’s initial brief and designation of matter are due within thirty days, that is, by October 2, 2026. Ex. G. Appellant did not report to the Court that the transcript was complete; the Clerk’s letter appears to reflect Legal Eagle’s August 24, 2026 delivery. SKA served the Motion on September 16, 2026. The undersigned filed his Notice of Appearance as additional counsel for Appellant on September 25, 2026.

ARGUMENT

I. Appellant complied with Rule 207(a)(1). There is nothing to compel.

Rule 207(a)(1), SCACR, requires the appellant, within ten days after service of the notice of appeal, to “make satisfactory arrangements (including agreement regarding payment for the transcript), in writing with the court reporter for furnishing the transcript,” and provides that “[u]nless the parties otherwise agree in writing, appellant must order a transcript of the entire

proceedings below.” Appellant did exactly that. The December 6, 2024 orders attached to SKA’s own Motion request the “Entire hearing” for every trial day and for the post-trial hearing, and agree to pay the per-page charge under Rule 607. SKA does not contend the order was untimely, incomplete, or defective in any respect.

What SKA actually complains of is that the transcript has not been produced. But the Rules place the duty to order on the appellant and the duty to transcribe and deliver on the court reporter: “The court reporter shall transcribe and deliver the transcript to appellant no later than sixty (60) days after the date of the request.” Rule 207(a)(2), SCACR. The reporter’s failure to meet that deadline, or any of the four extended deadlines, is not a failure by Appellant, and the Rules supply the remedies for it: extensions by Court Administration or the Chief Justice, notice to the parties and the Clerk, and, for willful noncompliance, contempt enforceable by order of the Chief Justice. Rule 207(a)(3), (4), (6), SCACR; see also Rule 607(d), (e), (f), (j), SCACR (imposing parallel duties on the court reporter). The obligation the Rules place on an appellant who has not received the transcript is to notify Court Administration, the Clerk, and the reporter in writing. Rule 207(a)(5), SCACR. Appellant did that and more. It gave written notice of nondelivery, responded to the Court’s overdue letters, and twice asked the Court to direct the reporter to produce what she had. The reporter herself confirmed in writing to this Court that the parties bear no responsibility for the delay. Ex. E.

Nor did Appellant cancel or narrow its order. Legal Eagle, not Appellant, reported that the audio it received could not support a complete transcript. Faced with that report, Appellant asked Legal Eagle to deliver first the portions that were both usable and relevant to the appeal, and Legal Eagle confirmed it would complete the remainder “[i]f it is determined that the rest of the trial is needed.” Ex. B. SKA’s own affidavit says the same thing: Legal Eagle “could have these tapes

transcribed even though portions of the tapes may be inaudible or unclear.” Motion, Ex. B ¶ 9. The question presented by the Motion, then, is not whether Appellant violated Rule 207. It is whether this Court should order the transcription of six additional trial days from audio the transcriber has described as missing, poor, off-microphone, muted, or, for one entire day, dead, when nothing in those six days bears on the issue on appeal.

II. The trial transcript is not necessary to decide the issue on appeal.

The Rules do not require that every page of a trial be reproduced because a trial occurred. A party may designate for the Record on Appeal only material “which may be properly included in the Record on Appeal,” and “shall not include any matter in his Designation which is not relevant to the appeal”; counsel’s signature on the Designation “constitutes a certificate that the Designation contains no matter which is irrelevant to the appeal.” Rule 209(b), (c), SCACR; see Rule 210(c), SCACR. This Court enforced the same relevance limitation under the predecessor rule against a respondent who demanded that the entire trial transcript be printed in the record. In *Griffin v. Griffin*, 282 S.C. 288, 318 S.E.2d 24 (Ct. App. 1984), the appellant challenged the denial of his directed verdict and JNOV motions and the grant of a new trial, and the respondent insisted on the entire transcript because of “the uncertainty of the specifics of [the appellant’s] planned argument.” Id. at 297, 318 S.E.2d at 30. The Court was “not persuaded,” reversed the order requiring the full transcript, and remanded for reimbursement of the cost of reproducing the irrelevant material, asking: “How is this material relevant to any question before this court when no exception, either directly or indirectly, raised an issue as to the qualifications of any juror, the admissibility of evidence, or the trial court’s charge to the jury?” Id. at 297–98, 318 S.E.2d at 30; see also *State v. Harris*, 278 S.C. 46, 47, 292 S.E.2d 40, 40 (1982) (appellate lawyers have a “duty of presenting only relevant matter in the transcript of record”).

The same principle governs when the ruling on appeal was made on papers. In *Woodson v. DLI Properties, LLC*, 406 S.C. 517, 753 S.E.2d 428 (2014), the Supreme Court held that the appellant's failure to include the hearing transcript did not make the record insufficient, because the written order "plainly referenced the evidence the circuit court considered in making its decision" and the appellant had provided the materials on which the ruling was based. *Id.* at 526–28, 753 S.E.2d at 433–34. It is the appellant who bears the burden of furnishing a record sufficient for review. *Id.* at 527, 753 S.E.2d at 433 (citing *Hamilton v. Greyhound Lines E.*, 281 S.C. 442, 444, 316 S.E.2d 368, 369 (1984)) ("the appealing party has the burden of providing a sufficient record such that the appellate court can make an intelligent review"). That burden, and the consequence of failing to carry it, falls on Appellant. SKA suffers no prejudice if Appellant proceeds on a record it believes sufficient; if the record proves insufficient, it is Appellant's appeal that fails. See Rule 210(h), SCACR.

The issue on appeal is narrow: whether the circuit court erred in applying a \$5,000,000 setoff to the Association's \$1,619,828.80 verdict against SKA. According to its Order, the circuit court decided that question on the pleadings, on the settlement documents it reviewed in camera, and on the verdict. The order identifies exactly what the court considered: "the arguments of counsel for the parties" and "Plaintiffs' settlement documents submitted for in-camera review." Ex. D. It relies on the Third Amended Complaint for the proposition that the settling defendants were alleged to be liable for the same damages as SKA. It does not cite a single witness, exhibit, or page of trial testimony. The Association's position on appeal is that the circuit court erred in that analysis, including because it did not determine, on any evidence, whether and to what extent the settlement payments compensated the same injury for which the jury awarded damages against SKA.

Every part of the record needed to review that ruling exists now. The jury charge and the verdict, which establish what the jury was asked to decide and what it awarded to each Plaintiff, are in certified transcript form and, by SKA's own account, are "clear and audible." Motion, Ex. B ¶ 7. The setoff motion, the parties' memoranda, the Rule 59(e) motion, and the orders are in the circuit court file, and the settlement documents reviewed by the court can be supplied. The transcript of the September 13, 2024 hearing at which the setoff motion was argued has been received. The trial exhibits, and the clerk's record of which were admitted, are available from the Berkeley County Clerk of Court. And the first two days of trial have been transcribed to the extent the audio permits.

SKA's only explanation for why it needs the other six days is that setoff "depends on injuries alleged in the pleadings and the evidence presented at trial," so "[t]he trial transcript is necessary to have a record of the evidence presented to the jury on Appellant's injuries and damages." Motion at 4. But SKA did not appeal. The jury's findings on liability and damages are final, and no party contends the verdict is unsupported by the evidence. Whether the settling defendants' payments were for "the same injury" as the verdict against SKA, S.C. Code Ann. § 15-38-50, is a question the circuit court answered by looking at the pleadings and the settlement documents, and the appellate question is whether the court was right to decide it that way and whether its findings are supported by what it considered. SKA does not identify a single witness whose testimony it contends is relevant to that question. SKA was the moving party below, and the burden that comes with that position was SKA's. *See Palmetto Pointe at Peas Island Condo. Prop. Owners Ass'n v. Island Pointe, LLC*, 445 S.C. 543, 551, 915 S.E.2d 501 (2025) (nonsettling defendant, "as the moving party," "had to establish" that the plaintiff's allocation of settlement proceeds was unreasonable); *Jolly v. Fisher Controls Int'l, LLC*, 443 S.C. 511, 532, 905 S.E.2d

380, 391 (2024) (“the setoff judge has the responsibility to make a reasonable allocation of settlement funds as a predicate to a setoff ruling” and may not “blindly accept a party’s allocation of settlement funds”). If trial testimony supported SKA’s motion, SKA could have put that testimony before the circuit court then, and the circuit court’s order relies on none. Whether the court could grant a \$5,000,000 setoff on that basis is precisely the question on appeal, and it is answered by the order and the materials the order says it considered. To the extent SKA believes some specific portion of the trial is nonetheless necessary to this Court’s review, Rule 209, SCACR, permits it to designate that material, subject to its certification that the material is relevant, and any dispute about the contents of the Record can be resolved at that stage on a concrete showing rather than on a general demand for everything. See *Griffin*, 282 S.C. at 297–98, 318 S.E.2d at 30.

III. Compelling transcription of the remaining six days would impose substantial cost and delay for a transcript that Legal Eagle has said will be substantially incomplete.

The court reporter estimated the full trial transcript at roughly 1,100 pages. The first two days alone ran 342 pages. At the Rule 607(h)(1)(A) rate of \$4.25 per page, transcription of the remaining six days would cost the Association several thousand dollars on top of the \$1,589.50 already incurred for the three transcripts delivered, and would take Legal Eagle more time. And the product would be, in Legal Eagle’s words, a transcript in which “[a] lot of content will be lost due to missing audio files, poor audio, speakers moving away from the microphones, and untimely muted microphones,” including a full day on which “the witness’s mike was dead.” Exs. A, B. The two trial days already transcribed illustrate the point: they contain roughly 170 “(indiscernible)” notations between them.

That expense and delay would fall on the party the reporter’s failure has already injured most, and the resulting transcript would not serve the purpose SKA claims for it. SKA’s own

footnote acknowledges the cost difference between an original transcript and a copy. Motion at 3 n.1. The party that wants the additional days should bear their cost. If SKA believes the untranscribed days are relevant, nothing prevents it from ordering them, as it ordered a copy of the transcript on December 10, 2024. Motion, Ex. A. And Rule 207(a)(1) itself anticipates this situation: “If a party to the appeal unjustifiably refuses to agree to ordering less than the entire transcript, appellant may move to be awarded costs for having unnecessary portions transcribed” Should the Court require Appellant to order the remaining days over SKA’s refusal to agree that they are unnecessary, Appellant reserves its right to seek those costs from SKA under Rule 207(a)(1) by motion made no later than the time the final briefs are due.

IV. The briefing schedule.

Appellant agrees that the briefing deadlines should be held in abeyance while the Court decides the Motion. In light of the Clerk’s September 2, 2026 letter, the undersigned’s recent appearance, and the need to assemble the Record on Appeal from the circuit court file and the transcripts now in hand, Appellant respectfully requests that the Court, upon ruling on the Motion, set the deadline for Appellant’s initial brief and designation of matter at thirty days after the date of its order. Appellant opposes an open-ended stay pending “receipt of the trial transcript,” which on this record would stay the appeal indefinitely.

Consistent with the position stated above, Appellant will instruct Legal Eagle to transcribe the remaining trial days to the extent the audio permits, on the following conditions: (1) Legal Eagle’s transcript is accepted as the transcript of record for those days, with any inaudible or missing portions noted as such, and no party may rely on the gaps as a ground for dismissal or for further delay; (2) SKA bears the cost of transcribing portions of the trial that have no bearing on the setoff issue, such as opening statements and closing arguments, or, at a minimum, Appellant’s right to recover those costs under Rule 207(a)(1), SCACR, is preserved; (3) the parties remain

bound by Rules 209 and 210, SCACR, so that only matter relevant to the setoff issue is included in the Record on Appeal; and (4) Appellant's initial brief and designation of matter are due thirty days after Legal Eagle delivers the remaining transcript or reports that no further transcript can be produced, whichever is first.

CONCLUSION

For these reasons, Appellant respectfully requests that the Court hold the briefing deadlines in abeyance while it decides the Motion; deny SKA's Motion to Compel Appellant to Order Trial Transcript as unnecessary in light of Appellant's undertaking to have Legal Eagle complete the remaining trial days to the extent the audio permits; direct that SKA bear the cost of the portions unrelated to the setoff issue, or that Appellant's right to recover those costs under Rule 207(a)(1), SCACR, is preserved; decline to stay the appeal indefinitely pending "receipt of the trial transcript"; and set Appellant's initial brief and designation of matter due thirty days after Legal Eagle delivers the remaining transcript or reports that no further transcript can be produced.

THE LAW OFFICE OF JESSE SANCHEZ, LLC

s/ Jesse Sanchez

Jesse Sanchez (SC Bar No. 101906)

751 Johnnie Dodds Blvd., Suite 200

Mount Pleasant, SC 29464

Phone: (843) 814-8181

jesse@jessesanchezlaw.com

Attorney for Appellant

September 28, 2026

Mount Pleasant, South Carolina

EXHIBIT “A”

From: Alexandria Garraud
Sent: Monday, August 17, 2026 8:39 AM
To: Hj Henry <hj@henrydjohnson.com>
Cc: info <info@LegalEagleInc.com>; Kevin Dehlinger <kdehlinger@LegalEagleInc.com>
Subject: RE: The Oaks At Riverside So vs Di Associates, Llc
Importance: High

Good morning Henry,

Our Transcriber has been working hard on this one. However, there is some things we need to notate. The court reporter who was assigned to this job provided poor main and backup audio to the SCJB. Notes were also insufficient and there are sections of scattered audio that he is unable to fit into the timeline due to ill-named files. Our Transcriber also noted that there was a lot of talking over and he could not discern who was speaking. Both Harvey and Mr. Elliott were not talking into the mike because they kept walking away. At some point, the witness's mike was dead for an entire day, and no one had addressed it. Our Transcriber cannot meet this deadline with the quality of this Audio. Let us know how you would like to proceed. Thank you.

Alexandria Garraud
Transcript Coordinator | www.legaleagleinc.com/
T: 864.467.1373
M: 864.997.8951
E: agarraud@legaleagleinc.com
A: Legal Eagle, 107 LeGrand Blvd., Greenville, SC, 29607

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From: Coath, Cordelia <ccoath@sccourts.org>
Sent: Thursday, June 4, 2026 10:22 AM
To: Transcripts <transcripts@LegalEagleInc.com>
Cc: Transcripts <transcripts@sccourts.org>
Subject: The Oaks At Riverside So vs Di Associates, Llc

Good morning,
I am reassigning this request to Legal Eagle. I have uploaded all audio and notes.

Thank you
Cordelia Coath

Requester Information:
Name: Henry Johnson
Entity: Other Oaks at Riverside
Phone Number: (770) 403-7260
Email: hj@henrydjohnson.com
Address: 108 Fairbanks Oak Alley Unit 403 Daniel Island, SC 29492
Is the requester a party on the case? Yes Oaks at Riverside
Does the requester represent a party? No
Transcript Information:
Docket Number: 2019CP0800092
Court Type: Circuit
County: Berkeley
Case Caption: The Oaks At Riverside So vs Di Associates, Llc
Appeal Pending? I do not know
Death Penalty? No
Start Date of Proceeding: 7/22/2024
End Date of Proceeding: 7/31/2024
Presiding Judge: McCoy, Jennifer B.
Court reporter daily assignments:
07/22/2024: Williams, Kymberlee Mignanelli
07/23/2024: Williams, Kymberlee Mignanelli

07/24/2024: Williams, Kymberlee Mignanelli
07/25/2024: Williams, Kymberlee Mignanelli
07/26/2024: Williams, Kymberlee Mignanelli
07/29/2024: Williams, Kymberlee Mignanelli
07/30/2024: Williams, Kymberlee Mignanelli
07/31/2024: Williams, Kymberlee Mignanelli
Opposing Counsel and/or other parties information:
(Attorney) Myra V. Whitener
(Defendant) Llc Di Associates
(Plaintiff) The Oaks At Riverside So
(email): hj@henrydjohnson.com
(Plaintiff Attorney) Walter Henry Jr. Bundy
Next hearing date: Date not entered
Portion of proceeding to be transcribed: Entire Hearing
Delivery Information:
Delivery Timeframe: Expedited Delivery (7 days)
Delivery Method: PDF/Email
Delivery Timeframe: Private/Self

EXHIBIT “B”

From: Kevin Dehlinger <kdehlinger@legaleagleinc.com>
Sent: Wednesday, August 19, 2026 4:12 PM
To: HJ@henrydjohanson.com; agarraud@legaleagleinc.com; brent@bundymcdonald.com
Cc: jesse@jessesanchezlaw.com
Subject: RE: The Oaks At Riverside So vs Di Associates, Llc

Brent and Henry,

I spoke with Jesse Sanchez yesterday by phone. He said the key portions of the trial you need for the appeal was the jury charge, verdict, and anything after the verdict. Fortunately, the audio for that section was useable. We will have the certified transcript for this section to you by Monday.

We will also provide the transcripts for the 7-22 and 7-23 portions of the trial we were able to complete. If it is determined that the rest of the trial is needed, we will work to complete the record although as we mentioned, A lot of content will be lost due to missing audio files, poor audio, speakers moving away from the microphones, and untimely muted microphones.

If you have any questions, please let us know. Thank you.

Kevin Dehlinger
Director of Operations
T: 864.467.1373 | M: 864.444.4219
E: kdehlinger@legaleagleinc.com | www.legaleagleinc.com/
107 LeGrand Blvd., Greenville, SC | 29607

EXHIBIT “C”

From: Kevin Dehlinger <kdehlinger@legaleagleinc.com>
Sent: Monday, August 24, 2026 8:04 AM
To: HJ@henrydjohnson.com; agarraud@legaleagleinc.com; brent@bundymcdonald.com
Cc: jesse@jessesanchezlaw.com; AShirley@legaleagleinc.com
Subject: RE: The Oaks At Riverside So vs Di Associates, Llc
Attachments: 2019-CP-08-00092 Oaks 7-22.pdf; 2019-CP-08-00092 Oaks 7-23.pdf; 2019-CP-08-00092 Riverside Jury Charge and Verdict.pdf

Henry,

Attached are the transcripts. We appreciate your patience as we navigated this process. If you would like the remaining portions of the trial transcribed, please let us know and we will do the best we can.

Your deposit covered the cost of these transcripts with a refund due to you of \$493.00. We will get this in the mail to you this week. Thank you.

Kevin Dehlinger
Director of Operations
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E: kdehlinger@legaleagleinc.com | www.legaleagleinc.com/
107 LeGrand Blvd., Greenville, SC | 29607

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Bill to

Henry Johnson (IND)
108 Fairbanks Oak Alley Unit 403
Daniel Island, SC 29492

Invoice details

Invoice no.: 111720
Terms: Net 15
Invoice date: 08/21/2026
Due date: 09/05/2026

PO:: Henry Johnson
Client Matter:: The Oaks v DI Associates

#	Date	Product or service	Description	Qty	Rate	Amount
1.	08/21/2026		The Oaks v DI Associates			
2.	08/21/2026	TRstd	Standard Delivery Transcription Rate per page - July 22nd	107	\$4.25	\$454.75
3.	08/21/2026	TRstd	Standard Delivery Transcription Rate per page - July 23rd	235	\$4.25	\$998.75
4.	08/14/2026	TRstd	Standard Delivery Transcription Rate per page - Jury Charge and Verdict	32	\$4.25	\$136.00
5.	08/21/2026	Customer Deposit	Transcript Deposit	374	-\$4.25	-\$1,589.50

Total

\$0.00

Note to customer

WE APPRECIATE YOUR BUSINESS!

Legal Eagle now offers online payment. Go to our website
(www.legaleagleinc.com) and click "Pay Invoices".

Please keep us in mind for ALL
litigation support services:

Court Reporting. E-Discovery. Trial Support.

EXHIBIT “D”

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

The Oaks at Riverside South Property Owners Association, Inc.; Colette Alderson; Leland Atkins Trust; Bette Atkins Trust; Michael Dorton; Emily Dorton; James VanCampen; Celia VanCampen; Janet Fiorenza; Richard Labaudiniere; Lydie Labaudiniere; Alley Oak, LLC; Lesene Hudson; and Asbury Hudson,

Plaintiffs,

Vs.

DI Associates, LLC;
Carriage Hill Associates of Charleston, LLC;
Charleston Landmark Builders, LLC;
Lesco Restorations, Inc.;
Mike Phillips a/k/a Michael A. Phillips d/b/a Phillips Masonry Contractors, Inc. a/k/a Mike Phillips Masonry;
Benchmark Surveying and Construction, LLC n/k/a Benchmark Construction of Charleston, LLC;

SKA Consulting Engineers, Inc.;
D&D Home Improvements, LLC;
Coleman Floor Company, Inc.;
Wards Waterproofing, Inc.; and
John Doe Contractors and Subcontractors 10-20,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CIVIL CASE NO.: 2019-CP-08-00092

ORDER GRANTING DEFENDANT SKA CONSULTING ENGINEERS, INC.'S MOTION FOR SETOFF PURSUANT TO S.C. CODE § 15-38-50 AND AMENDING THE JUDGMENT ON THE VERDICT FILED AUGUST 8, 2024

RECEIVED

Nov 27 2024

SC Court of Appeals

This matter came before the Court on Defendant, SKA Consulting Engineers, Inc.'s ("SKA") Motion pursuant to S.C. Code Ann. § 15-38-50 to setoff from the jury's verdict of July 31, 2024, all amounts paid, or to be paid, to Plaintiffs in settlement. Having considered the arguments of counsel for the parties and considered Plaintiffs' settlement documents submitted

for in-camera review, SKA's Motion for Setoff as it relates to Plaintiff, the Oaks at Riverside South Property Owners' Association, Inc. ("POA") is hereby GRANTED.

SKA's Motion for setoff from the verdict in favor Plaintiffs Leland Atkins Trust; Bette Atkins Trust; Michael Dorton; Emily Dorton; James VanCampen; Celia VanCampen; Janet Fiorenza; Richard Labaudiniere; Lydie Labaudiniere; Alley Oak, LLC; Lesene Hudson; and Asbury Hudson is hereby DENIED.

Although SKA was the only Defendant remaining at trial in this action, Plaintiffs previously sued 9 other companies that they claimed were also liable in tort for causing the same damages as SKA. *See* 3rd Am. Compl. This Court has reviewed in-camera the pretrial settlement documents provided by Plaintiffs' counsel. The settlement documents establish that Plaintiffs reached fair and reasonable settlements in exchange for releases given in good faith with all parties, other than SKA, in amounts totaling \$5,000,000 payable to the Plaintiff POA.

Pursuant to S.C. Code Ann. § 15-38-50, SKA is entitled to a setoff from the jury's \$1,619,828.80 verdict in favor of the Plaintiff POA.¹ Section 15-38-50 of the South Carolina Code provides:

When a release or a covenant not to sue or not to enforce judgment is given in good faith to one of two or more persons liable *in tort for the same injury* or the same wrongful death:

- (1) it does not discharge any of the other tortfeasors from liability for the injury or wrongful death unless its terms so provide, ***but it reduces the claim against the others*** to the extent of any amount stipulated by the release or the covenant, or in the amount of the consideration paid for it, whichever is greater; and

¹ On July 31, 2024, the jury returned a verdict against SKA in the total amount of \$1,656,538.83 --- \$1,619,828.80 - POA; \$4,435.47 - Colette Alderson; \$2,902.37 - Leland Atkins Trust/Bette Atkins Trust; \$12,185.53 - Michael Dorton/Emily Dorton; \$4,010.95 - James VanCampen/Celia VanCampen; \$2,639.55 - Janet Fiorenza; \$6,922.36 - Richard Labaudiniere/Lydie Labaudiniere; \$33.96 - Alley Oak, LLC; \$2,229.84 - Lesesne Hudson/Asbury Hudson; \$1,350.00 - Samuel ("Noel") Baxter/Sandra Baxter.

(2) it discharges the tortfeasor to whom it is given from all liability for contribution to any other tortfeasor.

S.C. CODE ANN. § 15-38-50 (emphasis added). In *Smith v. Widener*, the South Carolina Court of Appeals provided the legal framework for setoff under South Carolina law:

There can be only one satisfaction for an injury or wrong. A settlement by a joint tortfeasor reduces the claim against the others to the extent of any amount stipulated by the release or the covenant. Therefore, before entering judgment on a jury verdict, the court must reduce the amount of the verdict to account for any funds previously paid by a settling defendant, so long as the settlement funds were paid to compensate the same plaintiff on a claim for the same injury. When the settlement is for the same injury, the nonsettling defendant's right to a setoff arises by operation of law. Under this circumstance, section 15-38-50 grants the court no discretion in applying a set-off.

397 S.C. 468, 471-72, 724 S.E.2d 188, 190 (Ct. App. 2012) (internal quotations, citations, and brackets omitted). “Precedent instructs that before entering judgment on a jury verdict, the court must reduce the amount of the verdicts to account for any funds previously paid by a settling defendant, so long as the settlement funds were paid to compensate the same plaintiff on a claim for the same injury.” *Green v. McGee*, 441 S.C. 157, 168, 892, S.E.2d 520, 525-526 (2023).

South Carolina courts have recognized that this setoff is “statutorily mandated” from the total damages award. *Id.* at 471-72, 724 S.E.2d at 190; *Welch v. Epstein*, 342 S.C. 279, 313, 536 S.E.2d 408, 425-26 (Ct. App. 2000); *see also Smith v. Tiffany*, 419 S.C. 548, 557, 799 S.E.2d 479, 484 (2017) (noting “the General Assembly took steps to protect nonsettling defendants by codifying . . . the right to offset the value of any settlement received prior to the verdict—a right which arises by operation of law and is not within the discretion of the courts”). Even before the enactment of Section 15-38-50, South Carolina courts held for over 100 years that trial courts should equitably set off prior settlements against a judgment to prevent the plaintiff from receiving a double recovery. *See, e.g., Truesdale v. S.C. Hwy. Dep’t*, 264 S.C. 221, 234-35, 213 S.E.2d 740, 746 (1975).

This Court finds that the Plaintiff POA received \$5,000,000 in pretrial settlements in consideration for the POA's release of its claims against all parties, except SKA. The settlement amount paid was for the same claims and for the same injuries for which it received a verdict against SKA. Further, the Court finds that the releases were to joint tortfeasor given in good faith and shield those joint tortfeasors from all liability for contribution. *See Glenn v. 3M Co.*, 440 S.C. 34, 86, 890 S.E.2d 569, 596-597 (Ct. App. 2023). Therefore, the setoff for pretrial settlements exceeds the jury's award of \$1,619,828.80. The jury award is entirely eclipsed by the pretrial settlements and SKA owes zero for the verdict in favor of the POA.

The Plaintiffs Colette Alderson; Leland Atkins Trust/Bette Atkins Trust; Michael Dorton/Emily Dorton; James VanCampen/Celia VanCampen; Janet Fiorenza; Richard Labaudiniere/Lydie Labaudiniere; Alley Oak, LLC; Lesesne Hudson/Asbury Hudson; and Samuel ("Noel") Baxter/Sandra Baxter released their claims as to all Defendants, except SKA, but none of the settlement funds were paid to those Plaintiffs. This Court finds that SKA is responsible for the verdicts as to those Plaintiffs as follows: \$4,435.47 – Colette Alderson; \$2,902.37 – Leland Atkins Trust/Bette Atkins Trust; \$12,185.53 – Michael Dorton/Emily Dorton; \$4,010.95 – James VanCampen/Celia VanCampen; \$2,639.55 – Janet Fiorenza; \$6,922.36 – Richard Labaudiniere/Lydie Labaudiniere; \$33.96 – Alley Oak, LLC; \$2,229.84 – Lesesne Hudson/Asbury Hudson; \$1,350.00 – Samuel ("Noel") Baxter/Sandra Baxter.

CONCLUSION

The Court GRANTS SKA's motion for setoff as to The Oaks at Riverside South Property Owners' Association, Inc., and allows a setoff of \$5,000,000 against the jury verdict of \$1,619,828.80. SKA owes zero on the jury award to The Oaks at Riverside South Property Owners' Association, Inc.

The Court DENIES SKA'S motion for setoff as to Colette Alderson; Leland Atkins Trust/Bette Atkins Trust; Michael Dorton/Emily Dorton; James VanCampen/Celia VanCampen; Janet Fiorenza; Richard Labaudiniere/Lydie Labaudiniere; Alley Oak, LLC; Lesesne Hudson/Asbury Hudson; and Samuel ("Noel") Baxter/Sandra Baxter. Judgement will be entered against SKA as follows: \$4,435.47 – Colette Alderson; \$2,902.37 – Leland Atkins Trust/Bette Atkins Trust; \$12,185.53 – Michael Dorton/Emily Dorton; \$4,010.95 – James VanCampen/Celia VanCampen; \$2,639.55 – Janet Fiorenza; \$6,922.36 – Richard Labaudiniere/Lydie Labaudiniere; \$33.96 – Alley Oak, LLC; \$2,229.84 – Lesesne Hudson/Asbury Hudson; \$1,350.00 – Samuel ("Noel") Baxter/Sandra Baxter.

IT IS SO ORDERED.

-ELECTRONIC SIGNATURE PAGE TO FOLLOW-



Berkeley Common Pleas

Case Caption: The Oaks At Riverside South Property Owners Association, Inc ,
plaintiff, et al VS Di Associates, Llc , defendant, et al
Case Number: 2019CP0800092
Type: Order/Other

So Ordered

s/Jennifer B. McCoy #2764

EXHIBIT “E”

From: [Williams, Kymberlee](#)
To: [Court Of Appeals Filings](#); [Holmes, Tammie](#)
Cc: [Walter Bundy](#); [Evans-Pryor, Khee'Asia](#); [Court Of Appeals Filings](#); [James Elliott](#); [Brent McDonald](#); [Holmes, Tammie](#)
Subject: Re: The Oaks at Riverside v. DI Associates, LLC- 2024-002051
Date: Thursday, September 25, 2025 4:39:29 PM
Attachments: [The Oaks v. DI Associates- Transcript Overdue Letter.pdf](#)

Honorable Ms. Kitchings and Counsel:

This transcript has not been delivered yet. This transcript will be completed and delivered by Monday 10-6-25.

Many of us have considerable backlog and are in court all day almost every day. The parties in this action are in no way responsible for the late delivery of this transcript.

Thank you so much for your patience.

Kymberlee Mignanelli Williams, CSR/RPR
State of South Carolina
Official Circuit Court Reporter III
Fourteenth Judicial Circuit
(843) 575-4428

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From: Brent McDonald <brent@bundymcdonald.com>
Sent: Thursday, September 25, 2025 3:18 PM
To: Williams, Kymberlee <kwilliams@sccourts.org>
Cc: Walter Bundy <walter@bundymcdonald.com>; Evans-Pryor, Khee'Asia <kpryor@sccourts.org>; Court Of Appeals Filings <ctappfilings@sccourts.org>; James Elliott <jelliott@richardsonplowden.com>
Subject: Fwd: The Oaks at Riverside v. DI Associates, LLC- 2024-002051

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Ms. Williams- Please advise immediately as possible as to the status of the transcript in this matter. Thank you.

Regards,

M. Brent McDonald

Begin forwarded message:

From: "Evans-Pryor, Khee'Asia" <kpryor@sccourts.org>
Date: September 25, 2025 at 3:06:48 PM EDT
To: Jelliott@richardsonplowden.com, cberthelsen@richardsonplowden.com, frank.grimball@richardsonplowden.com, jrobey@richardsonplowden.com, cganjehsani@richardsonplowden.com, bcarlton@richardsonplowden.com, asanzgiri@richardsonplowden.com, brent@bundymcdonald.com, walter@bundymcdonald.com
Cc: mdalton@richardsonplowden.com, jmills@richardsonplowden.com, hgrate@richardsonplowden.com, vjapha@richardsonplowden.com, emma@bundymcdonald.com, brent@bundymcdonald.com
Subject: The Oaks at Riverside v. DI Associates, LLC- 2024-002051

Dear Counsel,

Attached please find correspondence from the Court of Appeals.

Please *do not respond to this email*. Send all correspondence to ctappfilings@sccourts.org. **Any parties not included in this email will receive the attached correspondence via US Mail.**

Respectfully,

Khee'Asia Evans-Pryor
Appeals Specialist

South Carolina Court of Appeals
1220 Senate Street, Columbia, SC 29201

Contact Us:
E-filing: ctappfilings@sccourts.org
Phone: **803-734-1890**
Website: www.sccourts.org

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# **EXHIBIT “F”**

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Oct 22 2025

SC Court of Appeals

**From:** [Evans-Pryor, Khee'Asia](#)  
**To:** [Court Of Appeals Filings](#)  
**Cc:** [Brent McDonald](#); [Walter Bundy](#); [James Elliott](#); [Holmes, Tammie](#); [Transcripts](#)  
**Subject:** FW: Oaks at Riverside v. DI Associates  
**Date:** Wednesday, October 22, 2025 10:00:25 AM  
**Attachments:** [image001.png](#)

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Good Morning,

I am forwarding your email to [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org). To ensure timely processing, please email all filings and correspondence to [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org).

Respectfully,

*Khee'Asia Evans-Pryor*  
Appeals Specialist



South Carolina Court of Appeals  
1220 Senate Street, Columbia, SC 29201

Contact Us:

E-filing: [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

Phone: 803-734-1890

Website: [www.sccourts.org](http://www.sccourts.org)

---

**From:** Williams, Kimberlee <[kwilliams@sccourts.org](mailto:kwilliams@sccourts.org)>  
**Sent:** Wednesday, October 22, 2025 9:40 AM  
**Cc:** Brent McDonald <[brent@bundymcdonald.com](mailto:brent@bundymcdonald.com)>; Walter Bundy <[walter@bundymcdonald.com](mailto:walter@bundymcdonald.com)>; Evans-Pryor, Khee'Asia <[kprior@sccourts.org](mailto:kprior@sccourts.org)>; James Elliott <[jelliott@richardsonplowden.com](mailto:jelliott@richardsonplowden.com)>; Holmes, Tammie <[tholmes@sccourts.org](mailto:tholmes@sccourts.org)>; Transcripts <[transcripts@sccourts.org](mailto:transcripts@sccourts.org)>  
**Subject:** Oaks at Riverside v. DI Associates

Honorable Ms. Kitchings and Counsel:

This transcript has not been completed and, again, at no fault of the parties or their clients.

I am on medical leave this week and hopefully not longer, but I will contact the parties directly to work out delivery specifics.

Thank you for your patience.

Kymerlee Mignanelli Williams, CSR/RPR

State of South Carolina

Official Circuit Court Reporter III

Fourteenth Judicial Circuit

(843) 575-4428

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# **EXHIBIT “G”**



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

September 2, 2026

Mr. Walter Henry Bundy, Jr., Esquire  
1516 Old Trolley Rd  
2Nd Floor  
Summerville SC 29485

Re: The Oaks at Riverside v. DI Associates, LLC  
Appellate Case No. 2024-002051

Dear Counsel:

It appears the transcript has been completed and delivered in this matter. Accordingly, our records have been updated to reflect the appellant's initial brief and designation of matter are due within thirty (30) days of the date of this letter.

Very truly yours,

A handwritten signature in blue ink that reads "Jasmine D. Smith, Deputy".

CLERK

cc: James H. Elliott, Jr., Esquire  
Cameron D Berthelsen, Esquire  
Francis E. Grimball, Esquire  
James Belford Robey, III, Esquire  
Carmen Vaughn Ganjehsani, Esquire  
Benjamin Palmer Carlton, Esquire

Ashwin Ray Sanzgiri, Esquire  
John Earle Tyler, Esquire

# **EXHIBIT “H”**

October 20, 2025

**Via Email Filing**

The Honorable Jenny Abbot Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201  
[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

South Carolina Office of Court Administration  
1220 Senate Street, Suite 200  
Columbia, SC 29201  
[transcripts@sccourts.org](mailto:transcripts@sccourts.org)

**RECEIVED**

**Oct 20 2025**

**SC Court of Appeals**

Re: The Oaks At Riverside South Property Owners Association, Inc. et al. v. SKA Consulting Engineers, Inc.  
Appellate Case No.: 2024-002051

Dear Mrs. Kitchings:

This firm represents the Appellant in this matter. This letter is to inform the S.C. Court of Appeals and the S.C. Office of Court Administration that the delivery of the trial transcript in this matter by Ms. Kymberlee Williams, CSR/RPR has still NOT yet been received.

We would ask if the S.C. Court of Appeals or the S.C. Office of Court Administration could request of the Court Reporter to produce whatever portions of the transcript that currently exist. This would greatly assist in the ability to move this appeal forward.

Please do advise if you need anything further from Appellant on this matter. With kindest regards, I remain,

Sincerely yours,

/s M. Brent McDonald

M. Brent McDonald

cc: Attorney for Respondent:

James H. Elliott Jr., Esq.  
Richardson Plowden & Robinson, P.A.  
235 Magrath Darby Blvd., Suite 100  
Mount Pleasant, SC 29464  
jelliott@richardsonplowden.com  
(via email only)

February 2, 2026

**RECEIVED**

**Feb 03 2026**

**SC Court of Appeals**

**Via Email Filing**

The Honorable Jenny Abbot Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201  
[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

South Carolina Office of Court Administration  
1220 Senate Street, Suite 200  
Columbia, SC 29201  
[transcripts@sccourts.org](mailto:transcripts@sccourts.org)

Re: The Oaks At Riverside South Property Owners Association, Inc. et al. v. SKA Consulting Engineers, Inc.  
Appellate Case No.: 2024-002051

Dear Mrs. Kitchings:

This firm represents the Appellant in this matter. This letter is to inform the S.C. Court of Appeals and the S.C. Office of Court Administration that the delivery of the trial transcript in this matter by Ms. Kymberlee Williams, CSR/RPR has still NOT yet been received.

We would ask if the S.C. Court of Appeals or the S.C. Office of Court Administration could request of the Court Reporter to produce whatever portions of the transcript that currently exist. This would greatly assist in the ability to move this appeal forward.

Please do advise if you need anything further from Appellant on this matter. With kindest regards, I remain,

Sincerely yours,

/s M. Brent McDonald

M. Brent McDonald

cc: Attorney for Respondent:

James H. Elliott Jr., Esq.  
Richardson Plowden & Robinson, P.A.  
235 Magrath Darby Blvd., Suite 100  
Mount Pleasant, SC 29464  
jelliott@richardsonplowden.com  
(via email only)