

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
1320 Main Street / 17th Floor / Columbia, SC 29201
Tel: 803.799.2000 Fax: 803.255.5908
www.nelsonmullins.com

Miles E. Coleman
Tel: 803.255.5549
Fax: 803.255.5908
miles.coleman@nelsonmullins.com

May 6, 2014

Hand Delivered

V. Claire Allen
Deputy Clerk of Court
SC Court of Appeals
1015 Sumter Street – 5th Floor
Columbia, SC 29201

RECEIVED

MAY 06 2014

SC Court of Appeals

RE: Harleysville Group Insurance v. Heritage Communities, Inc., a South Carolina Corporation; Heritage Magnolia North Inc., a South Carolina Corporation; et al.
C.A. No.: 2009-CP-26-11862
Appellate Case No. 2013-001281
Our File No.: 00470/01580

Dear Ms. Allen:

We are in receipt of your May 5, 2014 letter, which was issued in response to the Consent Motion to File an Amended Designation of Matter filed in this matter on April 17, 2014. The May 5 letter lists two deficiencies in that filing: (1) the failure to contain the required certificate of counsel and (2) the absence of proof of service for the Amended Designation. Our review of our motion, however, indicates that both of these items were included in the Consent Motion to File an Amended Designation of Matter filed with the Court and clocked-in by the Court on April 17, 2014.

As to the first of the deficiencies identified in your letter, the required certification was included in the April 17, 2014, filing. It can be found on page two of the Amended Designation of Matter, which was attached to the Consent Motion. *See* Clocked-In Copy of Consent Motion to File an Amended Designation of Matter filed April 17, 2014, attached hereto as Exhibit A.

As to the second of the deficiencies identified in your letter, the Proof of Service to the Consent Motion was filed with the Court on April 17, 2014, and served upon other counsel of record in the matter. It is our understanding that until the Court issues an order allowing the amendment, service of the proposed Amended Designation would be premature. Undersigned

V. Claire Allen
May 6, 2014
Page 2

counsel did, however, serve the proposed Amended Designation of Matter as part of the Consent Motion to allow same. *See* Clocked Copy of Proof of Service of Consent Motion to File and Amended Designation of Matters filed April 17, 2014, attached hereto as Exhibit B.

In light of our understanding that our April 17, 2014 filing satisfies the requirements of the South Carolina Rules of Appellate Procedure, unless the Court instructs otherwise, undersigned counsel does not intend to file a corrected or revised version of the prior filing. Should there be any questions or corrections in regard to this response, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Miles E. Coleman', with a long horizontal flourish extending to the right.

Miles E. Coleman

MEC:mws

Enclosures

cc: John P. Henry, Esquire
Laura Johnson Evans, Esquire
Karin McCarthy, Esquire



THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM HORRY COUNTY
Court of Common Pleas
John M. Milling, Special Referee

APR 17 2014

SC Court of Appeals

Appellate Case No. 2013-1281

Harleysville Group Insurance, a Pennsylvania corporation, ... Appellant/Respondent,

v.

Heritage Communities, Inc., a South Carolina Corporation;
Heritage Magnolia North, Inc., a South Carolina
Corporation; Buildstar Corporation, a South Carolina
Corporation, Magnolia North Horizontal Property Regime,
Magnolia North Property Owners Association, Inc., a
South Carolina Corporation and National Surety Corp.,
Defendants,,

Defendants,

Of whom Heritage Communities, Inc., a South Carolina
Corporation; Heritage Magnolia North, Inc., a South
Carolina Corporation; Heritage Riverwalk, a South
Carolina Corporation; Buildstar Corporation, a South
Carolina Corporation, National Surety Corp., and Tony L.
Pope and Lynn Pope; individually and representing as a
class all unit owners at Riverwalk at Arrowhead Country
Club Horizontal Property Regime are

Respondents,

And Magnolia North Horizontal Property Regime,
Magnolia North Property Owners Association, Inc., a
South Carolina Corporation and Riverwalk at Arrowhead
Country Club Horizontal Property Regime; Riverwalk at
Arrowhead Country Club Property Owners Association,
Inc. are

Respondents/Appellants.

**Consent Motion to File an Amended Designation of
Matter to be Included in the Record on Appeal**

Appellant/Respondent Harleysville Group Insurance ("Harleysville") hereby
seeks leave of the Court to file an Amended Designation of Matter to be Included in the

Record on Appeal. Harleysville filed its initial designation in this matter on September 9, 2013. That document designated a certain chart submitted to the Special Referee but inadvertently referred to that document as the "Magnolia North Data" rather than by its correct title of "Riverwalk Data."

Accordingly, Harleysville seeks leave of this Court to file the Amended Designation enclosed herein.¹ Counsel for Respondents/Appellants has consented to this request. (See attached.)

Respectfully submitted;

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 

C. Mitchell Brown
William C. Wood, Jr.
A. Mattison Bogan
Miles E. Coleman
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

Robert C. Calamari
Post Office Box 3939
Myrtle Beach, SC 29577
(843) 448-3500

Attorneys for Appellant/Respondent Harleysville

April 17, 2014

¹ Although this Court, by Order dated March 18, 2014, consolidated the two companion appeals known as "Magnolia North" and "Riverwalk," this Amended Designation amends only the previously-filed Designation in the "Riverwalk" appeal.

Miles Coleman

Subject: FW: Heritage record on appeal issue

From: Pat Henry [mailto:PHenry@thompsonlaw.com]
Sent: Thursday, March 20, 2014 8:55 PM
To: Mitch Brown
Cc: Stephanie Hall
Subject: RE: Heritage record on appeal issue

That is fine.

Sent from my Verizon Wireless 4G LTE Smartphone

----- Original message -----

From: Mitch Brown
Date: 03/20/2014 2:43 PM (GMT-05:00)
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Pat,

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First, in paragraph 23 of our Riverwalk Designation filed September 18, 2013, we designate a chart titled "Magnolia North Data." This is incorrect. We intended to designate a chart titled "Riverwalk Data." (There are two charts: one for Magolia North, which was properly designated, and one for Riverwalk, which was inaccurately designated due to this typo.)

Second, in paragraph 29 of your Magnolia North Designation filed December 16, 2013, you designated the "Motion of Riverwalk" to alter or amend. It appears that you meant to designate the motion of Magnolia North to alter or amend.

I propose that when we file the Record (April 17, 2014), we each file an Amended Designation by Consent to correct the two errors identified above. Please let me know if you are agreeable to this course of action.

Mitch

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In The Court of Appeals

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John M. Milling, Special Referee

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Magnolia North Property Owners Association, Inc., a South
Carolina Corporation and National Surety Corp.,
Defendants,,

Defendants,

Of whom Heritage Communities, Inc., a South Carolina
Corporation; Heritage Magnolia North, Inc., a South
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And Magnolia North Horizontal Property Regime, Magnolia
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APPELLANT/RESPONDENT'S AMENDED DESIGNATION
OF MATTER FOR THE RECORD ON APPEAL

Pursuant to Rule 209, SCACR, Appellant/Respondent Harleysville Group Insurance ("Harleysville") submits its designations of matter for inclusion in the record on appeal. These designations are in addition to the matters designated by opposing

counsel in the Respondents'/Appellants' Designation of Matter. Undersigned counsel certifies, pursuant to Rule 209(c), SCACR, that the designation contains no matter which is irrelevant to the appeal:

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3. Special Referee's Order disposing of case, February 28, 2013.
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6. Answer and Counterclaim of Riverwalk at Arrowhead, et al., October 21, 2009.
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13. Ex. 11: Transcript of Deposition of Mr. Lee Wright, August 3, 2010.

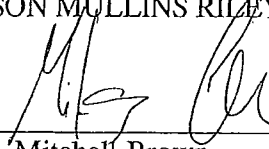
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15. Ex. 15: Harleysville's Reservation of Rights Letter to Insureds relevant to this action.
16. Ex. 17: Harleysville's chart regarding policies, limits, and aggregate remaining.
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30. Harleysville's Motion to Alter or Amend, March 21, 2013.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:


C. Mitchell Brown

SC Bar No. 012872

E-Mail: mitch.brown@nelsonmullins.com

William C. Wood, Jr.

SC Bar No. 015111

E-Mail: bill.wood@nelsonmullins.com

A. Mattison Bogan

SC Bar No. 72629

E-Mail: matt.bogan@nelsonmullins.com

Miles E. Coleman

SC Bar No. 78264

E-Mail: miles.coleman@nelsonmullins.com

1320 Main Street / 17th Floor

Post Office Box 11070 (29211-1070)

Columbia, SC 29201

(803) 799-2000

Robert C. Calamari

SC Bar No. 064985

E-Mail: bob.calamari@nelsonmullins.com

3751 Robert M. Grissom Parkway / Suite 300

Post Office Box 3939 (29578-3939)

Myrtle Beach, SC 29577-3165

(843) 448-3500

Attorneys for Appellant

Columbia, South Carolina

April 17, 201

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM HORRY COUNTY
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v.

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Horizontal Property Regime; Magnolia North
Property Owners Association, Inc., a South
Carolina corporation, and National Surety Corp.,..... Defendants,

Of whom Heritage Communities, Inc., a South
Carolina corporation; Heritage Magnolia North,
Inc., a South Carolina corporation; Heritage
Riverwalk, a South Carolina corporation; Buildstar
Corporation, a South Carolina corporation, and
National Surety Corp. and Tony L. Pope and Lynn
Pope, individually and representing as a class all
unit owners at Riverwalk at Arrowhead Country
Club Horizontal Property Regime are Respondents,

And Magnolia North Horizontal Property Regime,
Magnolia North Property Owners Assoc., Inc., a
South Carolina corporation and Riverwalk at
Arrowhead Country Club Horizontal Property
Regime; Riverwalk at Arrowhead Country Club
Property Owners Association, Inc. are Respondents/Appellants.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant/Respondent, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:


Consent Motion to File an Amended Designation of Matter to be Included in the Record on Appeal

Counsel Served:

John P. Henry, Esquire
Philip C. Thompson, Esquire
Thompson & Henry
1300 Second Avenue, 3rd Floor
Conway, SC 29528

Laura Johnson Evans, Esquire
Smith Moore Leatherwood, LLP
25 Calhoun Street, Suite 250
Charleston, SC 29401

Karin McCarthy, Esquire
Rivkin Radler
926 RXR Plaza
Uniondale, NY 11556


Lisa P. Whitehurst
Administrative Assistant

April 17, 2014



THE STATE OF SOUTH CAROLINA RECEIVED
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John M. Milling, Special Referee SC Court of Appeals

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Accordingly, Harleysville seeks leave of this Court to file the Amended Designation enclosed herein.¹ Counsel for Respondents/Appellants has consented to this request. (See attached.)

Respectfully submitted;

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By: 

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William C. Wood, Jr.
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Attorneys for Appellant/Respondent Harleysville

April 17, 2014

¹ Although this Court, by Order dated March 18, 2014, consolidated the two companion appeals known as "Magnolia North" and "Riverwalk," this Amended Designation amends only the previously-filed Designation in the "Riverwalk" appeal.

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NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 

C. Mitchell Brown

SC Bar No. 012872

E-Mail: mitch.brown@nelsonmullins.com

William C. Wood, Jr.

SC Bar No. 015111

E-Mail: bill.wood@nelsonmullins.com

A. Mattison Bogan

SC Bar No. 72629

E-Mail: matt.bogan@nelsonmullins.com

Miles E. Coleman

SC Bar No. 78264

E-Mail: miles.coleman@nelsonmullins.com

1320 Main Street / 17th Floor

Post Office Box 11070 (29211-1070)

Columbia, SC 29201

(803) 799-2000

Robert C. Calamari

SC Bar No. 064985

E-Mail: bob.calamari@nelsonmullins.com

3751 Robert M. Grissom Parkway / Suite 300

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Attorneys for Appellant

Columbia, South Carolina

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Philip C. Thompson, Esquire
Thompson & Henry
1300 Second Avenue, 3rd Floor
Conway, SC 29528

Laura Johnson Evans, Esquire
Smith Moore Leatherwood, LLP
25 Calhoun Street, Suite 250
Charleston, SC 29401

Karin McCarthy, Esquire
Rivkin Radler
926 RXR Plaza
Uniondale, NY 11556


Lisa P. Whitehurst
Administrative Assistant

April 17, 2014