

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

The Honorable Marvin H. Dukes, III
Beaufort County
Trial Court Case No. 2011-CP-07-1933

Case No. 2013-002281

M2192

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MAY 14 2014

SC Court of Appeals

Deep Keel, LLC,

Respondent,

v.

Atlantic Private Equity Group, LLC, Terry L. Rohlfig,
Jerry T. Caldwell, and Bluffton Village Town Center
Property Owners' Association, Inc.,

Defendants,

Of Whom Atlantic Private Equity Group, LLC,
Terry L. Rohlfig, and Jerry T. Caldwell are the

Appellants.

**APPELLANTS' MOTION FOR RECONSIDERATION
OR CLARIFICATION OF THE COURT'S ORDER
ENTERED APRIL 10, 2014**

Keating L. Simons, III
SIMONS & DEAN
147 Wappoo Creek Drive, Suite 604
Charleston, SC 29412
843-762-9132
Attorneys for Appellants

On April 10, 2014, the Court entered an order granting Respondent's motion to strike items three and four from Appellants' designation of matters to be included in the record on appeal. A copy of the order was received by the undersigned on April 15, 2014.

The order requires that Appellants serve an amended record on appeal within thirty days. Appellants served Respondents with an amended record on appeal on April 22, 2014. By agreement with Respondents service was effected by electronic means. The amended record deleted items three and four in compliance with the court's order.

The order also requires that items three and four not be included in the record on appeal or referenced in Appellants' final briefs. However, prior to the entry of the order Appellants had already filed the record on appeal and their final briefs in accordance with the time limits required by Rules 210 and 211, SCACR. The required number of copies of the printed, bound final briefs and the record on appeal were mailed to the clerk for filing on April 1, 2014.

The items the court ordered stricken from the record on appeal consisted of requests for admissions served by Respondents and Appellants' responses thereto. At the hearing resulting in the order and judgment under review Judge Dukes inquired "is there somewhere in the pleadings where the Defendants have denied that they executed these documents?" [R. p. 51, l. 22]

Appellants' counsel replied:

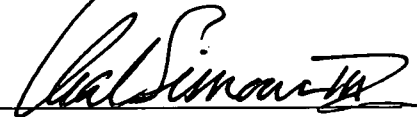
We never admitted the execution of those documents. We were served, and I don't remember whether it was before or after the substitution of Deep Keel, but we were served with requests for admissions. We did not admit them at that time either. We have never admitted the execution of those documents. [R. p. 52, l. 2]

The Brief of Appellants includes two brief references to Appellants' denial of the requests for admissions, at pages 1 and 7. The Reply Brief of Appellants also includes two such

references, at pages 2 and 3. The materials ordered stricken were included at the end of the bound record on appeal and add only three double-sided pages. [R. p. 155] Appellants have incurred \$503.44 in expenses for duplicating and binding the briefs and record.

Appellants respectfully request that the court's order be modified or clarified such that Appellants are excused from having to edit, reprint, rebind and refile their briefs and the record on appeal. Respondents would not be prejudiced by this. The fact of Appellants' having denied the requests to admit was known to the court below. And the court of appeals in its review of the case will no doubt not take into consideration matters determined to be not properly before it.

Respectfully submitted,



Keating L. Simons, III
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ATTORNEYS FOR APPELLANTS

May 9, 2014

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PROOF OF SERVICE

I, Debra Y. Coffey, a paralegal with the Law Offices of Simons & Dean, do hereby certify that I have served counsel in this action with a copy of the foregoing Appellants' Motion for Reconsideration or Clarification of the Court's Order Entered April 10, 2014 upon the below named by mailing a copy of same via U.S. Mail, postage prepaid, and properly addressed as follows:

Meredith Coker, Esquire
Altman & Coker, LLC
575 King Street, Suite A
Charleston, South Carolina 29403
Attorneys for Respondent

This 9th day of May, 2014.

LAW OFFICES OF SIMONS & DEAN

BY


Debra Y. Coffey, Paralegal