

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

The Honorable John C. Hayes, III, Circuit Court Judge

Consolidated Appellate Case No. 2012-213730  
Civil Action No. 2010-CP-46-02326

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MAY 14 2014  
**SC Court of Appeals**

Juontonio Pinckney, Trustee of the Pinckney Living Trust; Josephine Sciacca; Addie Smith; James and Deborah Barone; Ismael and Valerie Gonzales; and Joe and Sandra Moore.....Appellants,

v.

Epcon Communities, Inc.; Epcon Communities Franchising, Inc.; Brock L. Fankhauser; Fankhauser Property Group, Inc.; Stonecrest Villas of Tega Cay, LLC; and Stonecrest Villas of Tega Cay Home Owners Association, Inc. .... Respondents.

**RESPONDENT STONECREST VILLAS OF TEGA CAY  
CONDOMINIUM OWNERS ASSOCIATION, INC.'S  
MOTION TO STRIKE FINAL AMENDED BRIEF OF APPELLANTS**

The Respondent, Stonecrest Villas of Tega Cay Condominium Owners Association, Inc. (incorrectly identified in the caption as “Stonecrest Villas of Tega Cay Home Owners Association, Inc.”) (“Stonecrest COA”), through its undersigned counsel and pursuant to Rules 211(b) and 240, SCACR, moves to strike the Final Amended Brief of Appellants. This motion is made on the grounds that the Final Amended Brief of Appellants contains numerous material changes—including the wholesale revision of certain arguments as well as the addition and deletion of entire paragraphs—and purports

to respond to arguments contained in Stonecrest COA's Final Brief even though the Appellants did not file a Reply Brief. The following is a nonexhaustive list of examples.

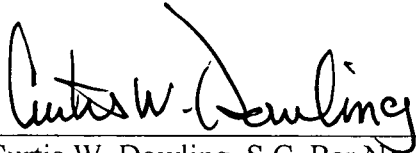
- The first paragraph under "Standard of Review" on page 8 is entirely new, while the second paragraph is significantly revised.
- All of the language in the first paragraph under "Argument" on page 9 beginning with the phrase "while mis-defining 'accident'" is entirely new.
- All of the language in the first full paragraph on page 10 beginning with the phrase "Over sixty (60%) percent" is entirely new.
- All of the language in the first full paragraph on page 11 beginning with the phrase "Regime treasurer Moscowitz" is entirely new.
- All of the language on page 12 through the top of page 13 is entirely new.
- All of the language in the first full paragraph on page 16 beginning with the phrase "FPG's own expert" is entirely new.
- The first full paragraph on page 22 has been significantly revised.
- Three paragraphs have been deleted which previously appeared before the second paragraph on page 23.
- All of the language on page 35 beginning with the phrase "The court analyzed" is entirely new.
- A paragraph has been deleted which previously appeared before the first full paragraph on page 37.
- All of the language in the first full paragraph on page 42 beginning with the phrase "Respondent has argued" is entirely new.
- The last paragraph before "Conclusion and Prayer for Relief" on page 48 has been significantly revised.
- Stonecrest COA's Final Brief is cited on pages 8, 10, 12, 13, 21, and 42.

Accordingly, the Final Amended Brief of Appellants violates Rule 211(b), SCACR, and is in direct contravention of this Court's April 24, 2014 Order requiring the Appellants to "serve and file an amended final brief, *which only includes amendments in*

*the form of updated citations to the Supplemental Record on Appeal” (emphasis added).*

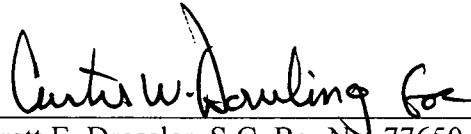
It should, therefore, be stricken.

This motion is not accompanied by a supporting memorandum because all applicable authorities are cited herein.



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May 14, 2014



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**PROOF OF SERVICE**

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I, the undersigned attorney with Barnes, Alford, Stork & Johnson, LLP, do hereby state that I have on May 14, 2013, served a copy of the enclosed **AMENDED FINAL BRIEF OF RESPONDENT STONECREST VILLAS OF TEGA CAY CONDOMINIUM OWNERS ASSOCIATION, INC.** upon all other parties, through their attorney(s) of record, by depositing copies of the documents in the United States Mail, first class, sufficient postage prepaid, with the return address(es) clearly noted, addressed as follows:

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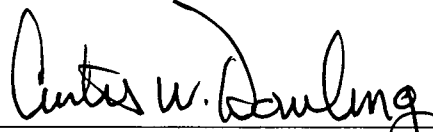
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