

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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APPEAL FROM LANCASTER COUNTY

Court of Common Pleas

Brian M. Gibbons Circuit Court Judge

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Case No. 2012-CP-29-00127

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Janice Gregory, Grady L. Martin, Jr., Kevin Martin, Teresa B. Martin, and William D. Martin, Appellants,

v.

The Estate of Janice Broughton and Jill Gainey, as Personal Representative of the Estate of Janice L. Broughton, Respondents.

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MOTION TO STRIKE

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The undersigned counsel for the Respondents hereby moves the Court for an Order requiring the Appellants to strike the Deposition of Kathy Knight from Appellants' Designation of Matter to be Included in the Record on Appeal and Appellants' Initial Brief pursuant to South Carolina Appellate Court Rule 210(c).

The Deposition of Kathy Knight was not filed with the Clerk of Court, was not presented to the lower court and is not a part of the record. Since it was not included in the record, the Deposition of Kathy Knight should not be included in Appellants' Initial Brief or Designation of Matter to be Included in the Record on Appeal. Attached is Respondents' Memorandum in

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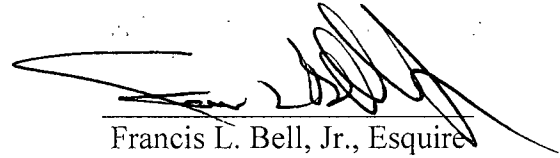
SEP 30 2014

**SC Court of Appeals**

73712

Support of Motion to Strike, an affidavit by The Lancaster County Clerk of Court and an email from Appellants showing what they intended to use for the Motion for Summary Judgment in circuit court.

September, 26, 2014



Francis L. Bell, Jr., Esquire  
Francis Bell Law Firm, LLC  
P.O. Box 867  
Lancaster, SC 29721  
(803) 283-8476  
Attorney for Respondents

Other Counsel of Record:

Tommy L. Stanford  
Tommy L. Stanford Law Firm  
P.O. Box 3321  
Greenwood, SC 29648  
(864) 229-3987  
Attorney for Appellants

La'Keabian Henderson  
The Shaw Legal Group, LLC  
P.O. Box 25908  
Greenville, SC 29616  
(864) 862-2800  
Attorney for Appellants

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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APPEAL FROM LANCASTER COUNTY

Court of Common Pleas

Brian M. Gibbons Circuit Court Judge

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MEMORANDUM IN SUPPORT OF RESPONDENTS' MOTION TO STRIKE

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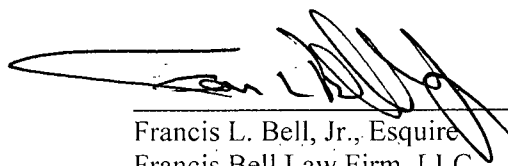
COMES NOW Respondent Jill Gainey, by and through her counsel, and submits this Memorandum in Support of her Motion to Strike.

Respondents move to strike the Deposition of Kathy Knight from Appellants' Designation of Matter to be Included in the Record on Appeal and any mention of the Deposition of Kathy Knight in Appellants' Initial Brief to the Court. South Carolina Appellate Court Rule 210(c) states the record shall not include matter which was not presented to the lower court or tribunal. The deposition of Kathy Knight was neither introduced in the lower court nor

mentioned in the transcript and shall not be included in this matter on appeal. Attached is an Affidavit from the Lancaster County Clerk of Court stating what was included into the record. Also attached is a copy of an email from Appellants that contained the affidavits of Janice Gregory and Terry Gregory that were to be used in opposition to Respondents' Motion for Summary Judgment in circuit court and nothing about the deposition of Kathy Knight.

For the foregoing reasons, Respondents respectfully request that this Court strike the Deposition of Kathy Knight in Appellants' Designation of Matter to be Included on the Record on Appeal and Appellants' Initial Brief.

September, 26, 2014



Francis L. Bell, Jr., Esquire  
Francis Bell Law Firm, LLC  
P.O. Box 867  
Lancaster, SC 29721  
(803) 283-8476  
Attorney for Respondents

THE STATE OF SOUTH CAROLINA

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AFFIDAVIT OF LANCASTER COUNTY CLERK OF COURT JEFF HAMMOND

Personally appeared before me Jeff Hammond, Clerk of Court of Lancaster County, who, after being duly sworn, states:

That he, as the keeper of the records of the Court of Common Pleas in Lancaster County, has reviewed the file 2012-CP-29-00127, which he is of the understanding is now the Appellate Case No. 2014-000936. After review, he has found that the only items filed were Respondents' Motion for Summary Judgment with attachments of the depositions of Phil Wright

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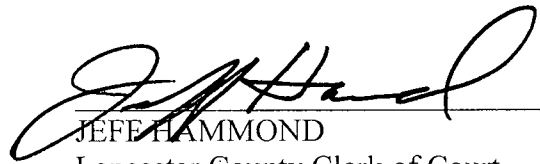
SEP 30 2014

**SC Court of Appeals**

and Jennifer Collins and Appellants' affidavits of Janice Gregory and Terry Gregory in  
Opposition to Respondents' Motion for Summary Judgment.

SWORN to before me this  
26<sup>th</sup> day of September, 2014.

Nancy K. Hall  
NOTARY PUBLIC FOR SC  
Commission expires: 4-15-2020

  
\_\_\_\_\_  
JEFF HAMMOND  
Lancaster County Clerk of Court

**Francis Bell**

---

**From:** Tommy Stanford <tstanford@tommystanfordlaw.com>  
**Sent:** Thursday, March 13, 2014 9:58 AM  
**To:** Francis Bell; Will Tindal  
**Cc:** kshaw@shawlegalgroup.com; 'Latasha Morgan'  
**Subject:** The Broughton Estate  
**Attachments:** Affdvts-Gregory.pdf

**TOMMY L. STANFORD LAW FIRM, PC**  
**Attorney At Law**

**Phone: (864) 229-3987**

**307 Main Street  
Greenwood, SC 29646**



**Fax: (864) 229-6304**

**Mailing Address:  
Post Office Box 3321  
Greenwood, SC 29648**

VIA: Fax and E-Mail to Francis Bell Law Firm at (803)-286-4864 and The Shaw Legal Group at (864)-862-4100

Thursday, March 13, 2014

Dear Mr. Bill, Mr. Tindal, & Mrs. Henderson,

**RE: Janice Gregory, et. al vs. The Estate of Janice L. Broughton**

I have attached the affidavits of Janice Gregory and Terry Gregory to this email regarding the above-referenced matter.

Sincerely,

*Tommy L. Stanford*  
Tommy L. Stanford  
Attorney At Law  
P.O. Box 3321  
Greenwood, SC 29646  
Phone: (864) 229-3987  
Fax: (864) 229-6304

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STATE OF SOUTH CAROLINA )

COUNTY OF LANCASTER )

Janice Gregory, Grady L. Martin Jr., )  
Kevin Martin, Teresa B. Martin, )  
and William D. Martin )

Plaintiffs, )

VS. )

The Estate of Janice L. Broughton )  
and Jill B. Gainey as Personal )  
Representative of the Estate of )  
Janice L. Broughton, )

Defendants, )

IN THE PROBATE COURT

SIXTH JUDICIAL CIRCUIT

AFFIDAVIT OF TERRY GILBERT  
GREGORY IN OPPOSITION to  
MOTION FOR SUMMARY  
JUDGMENT

CASE#: 2010-ES-29-00435

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SEP 3 2014

SC Court of Appeals

Personally appeared before me, Terry Gilbert Gregory, who being duly sworn states, in opposition to the Defendant's Motion for Summary Judgment, states as follows:

I am Terry Gilbert Gregory, I live in Greenwood, SC, and I am not a part of this lawsuit.

I went with my wife, Janice Gregory and her brother Grady Martin, to see their mother, Janice L. Broughton, sometime after Mother's Day in 2007. Upon arrival, we were invited into the house by Ms. Broughton. This was not the first time I had seen and talked to my mother-in-law, Ms. Broughton. I could tell, and I observed, that she was very nervous, depressed and confused in 2007. I watched her as she sat in a chair and was rocking back and forth; staring in the air. I watched her and I observed her during the conversation with her children how sometimes she would start talking to her dead husband, Mr. Broughton, saying "Howard, what you going to do" and "you said you were going to help me."

I could see a great difference in Ms. Broughton in 2007. I could tell that she was more nervous, depressed, and I could see the big effect, the death of her husband had on her actions,

and her mind, based on what I observed in her, and how she was talking to her children and her dead husband.

Terry Gilbert Gregory  
TERRY GILBERT GREGORY

Sworn to before me on

March 13, 2014

Terry Gilbert Gregory  
Notary Public for South Carolina

My Commission Expires 2/28/23

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LANCASTER )  
 )  
Janice Gregory, Grady L. Martin Jr., )  
Kevin Martin, Teresa B. Martin, )  
and William D. Martin )

Plaintiffs, )

VS. )

The Estate of Janice L. Broughton )  
and Jill B. Gainey as Personal )  
Representative of the Estate of )  
Janice L. Broughton, )

Defendants, )

IN THE PROBATE COURT

SIXTH JUDICIAL CIRCUIT

AFFIDAVIT OF JANICE GREGORY  
IN OPPOSITION to MOTION for  
SUMMARY JUDGMENT

CASE#: 2010-ES-29-00435

Personally appeared before me, Janice Gregory, who being duly sworn, states, in opposition to the Defendant's Motion for Summary Judgment, states as follows:

I, Janice Gregory, am one of the children of Janice L. Broughton, and I live in Greenwood, South Carolina. I have visited my mother at her home in Lancaster, South Carolina. I visited my mother before the death of her second husband, James Howard Broughton, who died October 14, 2006. I also visited with her, in her home, after his death in 2007.

Prior to the death of Mr. Broughton, my mother, Janice L. Broughton had many medical problems, and depended upon Mr. Broughton very heavily. She was taking Darvocet-N, medicine that is used for pain, and she was taking Trazodone medicine which functions are for pain and depression.

I specifically observed how my mother became more depressed in 2007, after the death of her husband. I along with my brother, Grady Martin and my husband, Terry Gilbert Gregory, went to see my mother in 2007; it was sometime after Mother's Day of 2007. I observed and noticed my mother had a blank stare on her face, and she appeared to be very depressed. I

observed her as she was sitting in a regular chair, but I saw her as she was rocking with her body, back and forth in the chair, looking in the air and talking to her dead husband, Mr. Broughton.

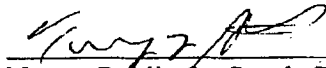
I noticed and saw she was very, very depressed, and confused. I observed that she no longer had a look of confidence that I had observed prior to Mr. Broughton's death. I could definitely see how the impact of his death, culpable with the medication, and the previous brain tumor had impacted her in 2007.

I further believe that Mr. Robert Broughton, the uncle of James Howard Broughton, will testify as to his observation and knowledge of Janice Broughton before and after the death of her husband. That they had a good relationship to the extent that Janice Broughton over the years had baby sat his two children. That after the death of Mr. Broughton, Mr. Robert Broughton stopped by the house of my mother, Janice Broughton and she came to the door and indicated that she didn't want to have anything to do with people and that she appeared to have totally withdrawn from people except for Jill Gainey and Kathy Knight.

  
JANICE GREGORY

Sworn to before me on

March 12, 2014

  
Notary Public for South Carolina

My Commission Expires 2/28/23

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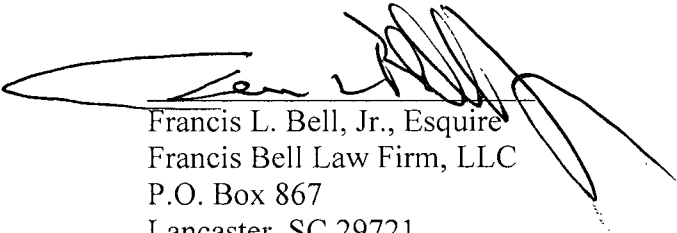
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I certify that I have served the Motion to Strike, together with Memorandum in Support of Respondents' Motion to Strike and Affidavit of Lancaster County Clerk of Court Jeff Hammond, by depositing copies of same in the United States Mail, postage prepaid, on September 26, 2014, addressed to Appellants' attorneys of record as follows:

Tommy L. Stanford  
Tommy L. Stanford Law Firm  
P. O. Box 3321  
Greenwood, SC 29646

La'Keabian Henderson  
The Shaw Legal Group, LLC  
P.O. Box 25908  
Greenville, SC 29616

September, 26, 2014



Francis L. Bell, Jr., Esquire  
Francis Bell Law Firm, LLC  
P.O. Box 867  
Lancaster, SC 29721  
(803) 283-8476  
Attorney for Respondents

# FRANCIS BELL LAW FIRM, LLC

---

Telephone 803-283-8476 | Fax 803-286-4864  
312 North Main Street (29720) | PO Box 867 | Lancaster, SC 29721

FRANCIS L. BELL, JR.  
fbell@fbell-law.com

OF COUNSEL:  
WILLIAM C. TINDAL  
wtindal@fbell-law.com

D. GLENN YARBOROUGH  
(1919-1979)

September 26, 2014

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Re: *Janice Gregory, Grady L. Martin, Jr., Kevin Martin, Teresa B. Martin, and  
William D. Martin, Appellants*  
vs.  
*The Estate of Janice Broughton and Jill Gainey, as Personal Representative of the  
Estate of Janice L. Broughton, Respondents*  
*Trial Court Case No. 2012CP2900127*  
*Appellate Case No. 2014-000936*

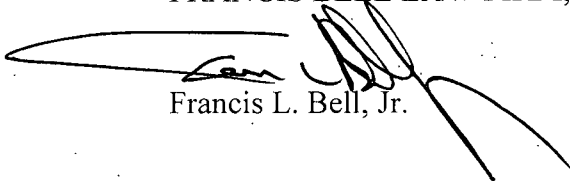
Dear Madam Clerk:

Enclosed for filing in the above matter are original + six copies of *Motion to Strike, together with Memorandum in Support of Respondents' Motion to Strike, Affidavit of Lancaster County Clerk of Court Jeff Hammond, and Proof of Service on Appellants' attorneys of record.*

Also enclosed is my firm's check for the filing fee of \$25.00.

Very truly yours,

FRANCIS BELL LAW FIRM, LLC

  
Francis L. Bell, Jr.

FLBjr:ym

Cc: Tommy L. Stanford (w/encs.)  
La'Keabian Henderson (w/encs.)

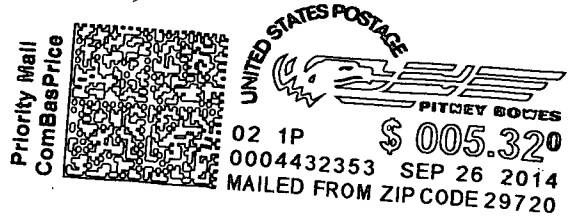
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SC Court of Appeals

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312 North Main Street (29720)

PO Box 867

Lancaster, SC 29721



**First Class Mail**

The Hon. Jenny Abbott Kitchings  
Clerk, SC Court of Appeals  
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