

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

74491

Marvin H. Dukes, III, Special Circuit Court Judge

Case No. 2014-CP-07-001729

JAMEEL RIZK AND  
CHRSTINA RIZK;

Respondents,

v.

JUDY F. SIMMONS,

Appellant.

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**SC Court of Appeals**

APPELLANT'S MOTION FOR LEAVE TO FILE DESIGNATION OF  
RECORD ON APPEAL OUT OF TIME

Appellant, Judy F. Simmons, moves this Court for leave to file her Designation of Record on Appeal. The Appellant's Designation of the Record accompanies this Motion.

The Notice of Appeal was filed in the Circuit Court on August 1, 2014, and filed with the Clerk for the Court of Appeal on August 11, 2014. On November 13, 2014, this Court graciously granted Appellant an extension to file the Initial Appellant's Brief out of time, and accepted Appellant's Initial Brief, effective that date.

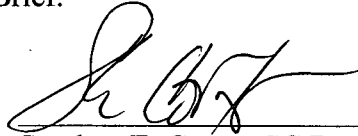
Unfortunately, because of the sequence of Motions, and negligence of counsel for the Appellant, though the Designation of the Record on Appeal had been drafted, the undersigned failed to file it when this Court granted the Motion to File the Brief out of time.

The Record below is sparse. It includes only the following: Order Granting Summary Judgment dated March 19, 2014; Order Denying Motion to Set Aside Judgment dated July 2, 2014; the pleadings; Respondents/Plaintiffs' Motion for Summary Judgment, and Appellant/Defendant's Memorandum in Opposition; and four affidavits, including one for each of the parties, and one for each of the real estate agents. Each of those items was cited by Appellant's Initial Brief with

descriptions of each document, as well as references to page and paragraph numbers. Pertinent portions of the Record were quoted.

Appellant has filed her Initial Brief, concisely stating her case in 14 pages, with 7 pages of argument. Appellant does not rely upon any evidence that is not precisely identified by her Initial Brief. In addition, Appellant waives filing of a Reply Brief, as there is nothing to be added which was not addressed by the Initial Brief. Given the limited Record, and the precise references in Appellant's Brief, it would not appear that the Respondents would suffer no prejudice as result of filing Appellant's Designation of Record on Appeal.

In the event this Court allows Appellant to supplement the Record by the items set forth by Appellant's Designation of Record on Appeal, Appellant is prepared to immediately file and serve the bound Record on Appeal, and to file her Final Brief.



Stephen E. Carter, SC Bar #12859  
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19 Shelter Cover Ln Ste 100  
Hilton Head Island, South Carolina 29928  
(843)785-5900  
Attorney for Appellant

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE BEAUFORT COUNTY  
Court of Common Pleas

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Case No. 2014-CP-07-01729

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JAMEEL RIZK AND CRISTINA RIZK,.....Respondents,

v.

JUDY F. SIMMONS,.....Appellant.

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PROOF OF SERVICE

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This is to certify that I, the undersigned, have on this day delivered a true and correct copy of Appellant's Motion for Leave to File Designation of Record on Appeal Out of Time, and Certificate of Service in the above-captioned case by depositing a copy of same in the United States Mail with correct postage to ensure delivery to:

George E. Mullen, Esq.  
Mullen & Wylie, LLC  
P.O. Box 5969  
Hilton Head Island, SC 29938

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**SC Court of Appeals**

CARTER LAW FIRM

By: 

Stephen E. Carter  
S.C. Bar No. 12859  
100 WatersEdge  
Hilton Head Island  
SC 29928-3574  
843 785 5900

ATTORNEY FOR APPELLANT

December 15, 2014

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

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APPEAL FROM THE BEAUFORT COUNTY  
Court of Common Pleas

Marvin H. Dukes, III, Special Circuit Court Judge

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Case No. 2014-001729

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JAMEEL RIZK AND CRISTINA RIZK,.....Respondents,

v.

JUDY F. SIMMONS,.....Appellant.

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DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL

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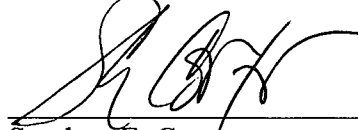
**SC Court of Appeals**

Appellant proposes the following be included in the Record on Appeal:

1. Order Granting Summary Judgment dated March 19, 2014
2. Order Denying Motion to Set Aside Judgment dated July 2, 2014
3. Complaint
4. Answer
5. Respondents/Plaintiffs' Motion for Summary Judgment
6. Respondents/Plaintiffs' Joint Affidavit
7. Affidavit of Eric Dollenberg
8. Appellant/Defendant's Affidavit in Opposition to Summary Judgment, with Exhibits

9. Affidavit of James Wedgeworth, with Exhibits
10. Appellant/Defendant's Return and Memorandum in Opposition to Summary Judgment
11. Appellant/Defendant's Motion to Set Aside Summary Judgment

I certify that this designation contains no matter which is irrelevant to this appeal.



---

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE BEAUFORT COUNTY  
Court of Common Pleas

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Case No. 2014-CP-07-01729

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JAMEEL RIZK AND CRISTINA RIZK,.....Respondents,

v.

JUDY F. SIMMONS,.....Appellant.

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PROOF OF SERVICE

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This is to certify that I, the undersigned, have on this day delivered a true and correct copy of Appellant's Designation of Record on Appeal and Certificate of Service in the above-captioned case by depositing a copy of same in the United States Mail with correct postage to ensure delivery to:

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Mullen & Wylie, LLC  
P.O. Box 5969  
Hilton Head Island, SC 29938

CARTER LAW FIRM

By: 

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ATTORNEY FOR APPELLANT

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**SC Court of Appeals**

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December 15, 2014

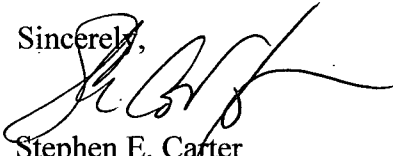
The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1015 Sumter Street (29201)  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: Jameel Rizk and Chrisine Rizk, Respondents v. Judy F. Simmons, Appellant  
Appellate Case No. 2014-001729

Dear Ms. Kitchings:

I've enclosed the following for filing: the original and six copies of a Motion for Leave to file Appellant's Designation of Record on Appeal, together with the proposed Designation of Record on Appeal. Also enclosed are the Proof of Service of the Motion on the Respondents, and the filing fee of \$25.00

Sincerely,



Stephen E. Carter  
S.C. Bar No. 12859  
19 Shelter Cove Ln Suite 100  
Hilton Head Island, SC 29928  
Attorney for Appellant

cc: George E. Mullen, Esq.  
Mullen & Wylie, LLC  
P.O. Box 5969  
Hilton Head Island, SC 29938  
Attorney for Respondents

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**SC Court of Appeals**

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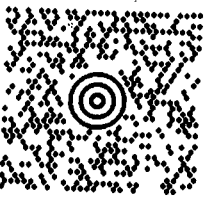


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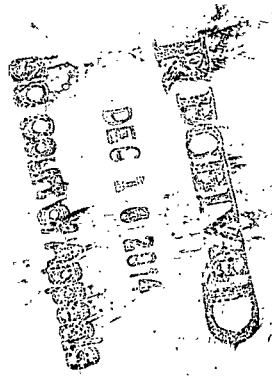
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