

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Mikell R. Scarborough, Master in Equity

Case No. 2013-CP-10-4248

Belle Hall Plantation Homeowner’s Association, Inc.,.....Respondent,

v.

John A. Murray, Trustee of John E. Murray & Gloria C. Murray Family Trust, Defendants,

Of whom David Conor Keys & Karen Keys.....Appellants.

NOTICE OF MOTION AND MOTION
TO WITHDRAW APPELLANTS’ INITIAL BRIEF,
TO SUBSTITUTE AN AMENDED INITIAL BRIEF IN ITS PLACE
AND TO AMEND APPELLANTS’ DESIGNATION OF MATTER.

The Appellants, David Conor Keys & Karen Keys by and through their undersigned counsel, hereby move before this Court, pursuant to Rules 208, 209, 240, SCACR and any other applicable South Carolina Appellate Rule, for an Order granting Appellants the right to withdraw Appellants Initial Brief and substitute in its place an amended brief. Appellants further move before this Court for an Order allowing Appellants to amend their Designation of Matter to include the lower court’s Order filed on February 10, 2015, Appellants’ Motion to Reconsider said Order filed on February 18, 2015, and the lower courts Order on upon said Motion presumed to be filed in the near future. If the Court will grant Appellants Motion Appellants will stand ready, willing, and able to file Appellants Amended Brief and Amended Designation of

Matter upon receipt of notice of granting said Motion. The grounds for the motion are as follows:

1. On **July 22, 2014**, the Master filed an Order Vacating the Order of Foreclosure, and the Sale of the Subject property to Appellants, David Conor Keys and Karen Keys (hereinafter "Appellants").
2. On **August 1, 2014**, Appellants filed a Motion to Reconsider the Order of July 22, 2014.
3. On **August 4, 2014**, the Respondent, John A. Murray, Trustee of John E. Murray and Gloria C. Murray Family Trust (hereinafter "the Trust"), filed a Motion to Amend the Order of July 22, 2014, to include additional findings of fact and law.
4. On **August 20, 2014**, the Master filed a form four Order denying the Appellants Motion to Reconsider the Order of July 22, 2014, and Granting the Respondent Trust's Motion to Amend the Order of July 22, 2014. The form four Order states: "Formal order to follow."
5. On **September 2, 2014**, Appellants, pursuant the requirements of Rule 59(e), SCRCP, filed a Motion to Reconsider the Order of August 20, 2014.
6. On **September 19, 2014**, Appellants filed a Notice of Appeal in this matter with the lower court, served the notice on all parties and this Court.
7. On **September 19, 2014**, *the Master filed and Order denying Appellants' Motion to Reconsider the Order of August 20, 2014.*
8. On **December 8, 2014**, the Trust served this Court a correspondence which asserted that this appeal was premature because the Order of August 20, 2014, stated "formal order to follow." The Trust asserted that Master was still reviewing the "formal order."

9. On **December 23, 2014**, this Court sent Appellants a correspondence requesting that Appellants respond to the Trust's December 8, 2014, Correspondence.

10. On **December 23, 2014**, Appellants served a letter on this Court responding the Court's request.

11. On **January 21, 2015**, this Court sent the parties a Correspondence which states in relevant part: "After reviewing the documents provided along with the notice of appeal and amended notice of appeal, *it appears to our satisfaction that the master-in-equity issued a ruling on the Rule 59 motion to alter or amend, filed on September 19, 2014. Accordingly, this appeal may proceed.* Enclosed is the Order of the Court granting Mr. Keys' request for an extension of time to his appellant's initial brief and designation of matter."

12. On **February 1, 2015**, Appellants served their initial brief and designation of matter upon this Court and all parties.

13. On **February 10, 2015**, the Master filed an Order Amending the factual and legal findings of the Order of July 22, 2014. The Order states: "While this court is aware this matter is now on appeal, and therefore may lack jurisdiction, that August 20, 2014 Order provided a "formal order to follow" and therefore this order provides the legal, factual, and equitable basis for this court's ruling."

14. The Order of February 10, 2015, which was filed after Appellants served their initial brief and designation of matter, alters and amends the Order of July 22, 2014, which vacated the Order of Foreclosure and the Sale of the subject property. This is the principle issue on this appeal! The Order of July 22, 2014, contained the core factual and legal rulings at issue in this appeal, and the Order of February 10, 2015, altered and amended those factual and legal rulings.

15. Appellants would assert that it would be highly prejudicial to Appellants not to allow them to substitute their Initial Brief with an amended brief which accounts for, and takes into consideration, the Order of February 10, 2015.

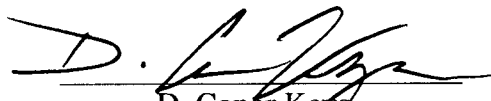
16. Appellants would further assert that it would be in the interest of this Court and judicial economy to allow Appellants to withdraw their Initial Brief and substitute it with an amended brief. Appellants would additionally assert that providing the Court with a substituted amended brief rather than a supplement to Appellants' Initial Brief would also be in the interest of judicial economy.

17. Appellants would assert that because the Respondents have not filed their initial briefs in this matter, they will suffer no prejudice if Appellants' motion is granted.

18. Appellants do not request of this Court an extension of time to amend their initial brief or designation of matter, but rather stand ready and willing and able to serve this Court with an amended brief and an amended designation of matter if this Court were to grant Appellants' Motion, excepting that reasonable time necessary to receive the Court's notice of ruling and subsequently serve the documents upon the Court and parties.

For the reasons set forth above and the extraordinary circumstances presented, Appellants respectfully request that this Court grant their motion.

February 26, 2015
Charleston, SC


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*Individually and as
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Other Counsel of Record:

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PROOF OF SERVICE

I certify that on this 26th day of February 2015, I have served Appellants' Motion to file an Amended Brief and Designation of Matter upon all counsel of record by depositing a copy in the United States Mail, postage prepaid addressed as follows:

Amanda Reece
Reece Law Firm, LLC
871 Low Country Blvd., Suite 200
Mt. Pleasant, SC 29464
*Attorney for John A. Murray,
Trustee of the John E. Murray and
Gloria C. Murray Family Trust*

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February 26, 2015,

V. Claire Allen, Deputy Clerk
Clerk of Court, SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

**RE: Belle Hall Plantation Homeowner's Association, Inc. v. John A. Murray, Trustee of John E. Murray Gloria C. Murray Family Trust
Appellate Case No.: 2014-002018**

Madam Clerk,

Please find enclosed, with regard to the above referenced matter, Appellants':

1. Third Amended Notice of Appeal;
2. Motion to withdraw and Appellants' Initial Brief, to substitute an amended brief, and amend Appellants' Designation of Matter; and
3. A corresponding check for said motion.

With kind regards,



D. Conor Keys

Enclosures:
(as stated)
CC:
Amanda Reece
Stephanie Trotter

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