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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY  
Court of Common Pleas

J. C. Nicholson, Jr., Circuit Court Judge

Trial Case No.'s 2009-CP-08-1068, 2009-CP-08-3916,  
2009-CP-08-1413, 2008-CP-08-2714  
Appellate Case No. 2014-002390

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APR 24 2015

SC COURT OF APPEALS

THE OAKS AT RIVERS EDGE PROPERTY OWNERS ASSOCIATION, INC.,  
JOHN E. ATKINSON, JOAN D. STRANDQUIST, JOSEPH E. CHIOVAROU,  
JR., PEYTON H COOK, JR., BRENDA COOK, JOHN W. EDELEN, KAREN  
A NELSON, ROBERT J GRAHAM, MAUREEN S. GRAHAM, NANCY K.  
JOHNSON as trustee for the Nancy K. Johnson Revocable Trust, WILLIAM  
JUNG, CHARLES MARAZITI, PATRICIA MARAZITI, GEORGE S  
POLLARD, ELEANOR J. POLLARD, ROBERT REECE, GERARD M RUVO  
AND SUE S RUVO as trustees for the Ruvo 2006 Living Trust, CAROLYN M.  
JENNINGS, THOMAS EDWARD KEANE, EDWARD WALLACE BARR, III,  
RICHARD B. PEKRUHN, PAULINE PEKRUHN, MATTHEW J  
SEVERANCE, and ELIZABETH ASHLEY PHILLIPS SEVERANCE,

Respondents,

v.

DANIEL ISLAND RIVERSIDE DEVELOPERS, LLC, and CARRIAGE HILL  
ASSOCIATES OF CHARLESTON, LLC,

Appellants.

MOTION TO FILE POST-TRIAL HEARING EXHIBITS UNDER SEAL

Counsel for Appellants, Daniel Island Riverside Developers, LLC, and Carriage  
Hill Associates of Charleston, LLC, (hereinafter "Appellants") respectfully move this  
Court to file post-trial exhibits P1-P4 under seal pursuant to the South Carolina Supreme

Court Order issued on April-15, 2014, and Rule 240 of the South Carolina Appellate Court Rules. Respondents' counsel designated exhibits P-1, P-2, P-3, and P-4 from the post-trial hearing which took place on May 23, 2014, to be included in the record on appeal for the above-captioned case. The aforementioned exhibits, which are attached to this motion in an envelope marked sealed, are confidential settlement agreements and memoranda which Judge Nicholson sealed during the post-trial motions hearing (Ex. A Post Trial Mot. Tr. pp. 3-6). In order to protect the confidential nature of the settlement agreements relating to additional parties who are not involved in the pending appeal, we respectfully ask this Court to seal the attached exhibits which are to be included as part of the record on appeal.

April 23, 2015

Respectfully submitted,



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Other Counsel of Record:

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Attorneys for Respondents

# ***EXHIBIT A***

1 STATE OF SOUTH CAROLINA )  
 2 COUNTY OF CHARLESTON )  
 \_\_\_\_\_ )  
 3 )  
 4 THE OAKS AT RIVERS EDGE PROPERTY )  
 OWNERS ASSOCIATION, et al, )  
 5 Plaintiff, )  
 6 vs. )  
 7 DANIEL ISLAND RIVERSIDE )  
 DEVELOPERS, LLC, et al, )  
 8 Defendant. )  
 9 \_\_\_\_\_ )

Court of Common Pleas  
 Case No. 2009-CP-08-1068

Transcript of Record

DATE: May 23, 2014

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B E F O R E:

The Honorable J.C. Nicholson

A P P E A R A N C E:

Walter Henry Bundy, Jr.  
 For the Plaintiff, The Oaks at River's Edge Horizontal  
 Property Regime

Roy P. Maybank, Charles P. Altman, and Michael Brent  
 McDonald  
 For the Defendant, Daniel Island Riverside Developments  
 and Carriage Hill Associates of Charleston

Karen V. Andersen, RMR, CRR  
 Circuit Court Reporter

1	<u>INDEX</u>		
2	EXHIBITS		
3	Exhibit	Description	Identification
4	D-1	List of Settlement Amounts	4
5	P-1	Settlement Funds	4
6	P-2	Settlement Funds	4
7	P-3	Memorandum of Settlement	6
8	P-4	Mutual Settlement Agreement and Release	6
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1 THE COURT: Mr. Maybank, do you have any choice  
2 which one you want to hear first?

3 MR. MAYBANK: Your Honor, I really don't. I think  
4 it's going to amalgamate to one and the same.

5 We represent Daniel Island Riverside Developments  
6 and Carriage Hill Associates of Charleston.

7 Your Honor, what I handed you is actually in another  
8 case; however, it is a supplemental discovery response. The  
9 pertinent information is on the very last page.

10 THE COURT: Riverside Developers, Carriage Hill  
11 Associates?

12 MR. MAYBANK: Yes, sir. Why don't you take that  
13 last page? It just lays out the damages.

14 THE COURT: Mr. Bundy, I guess before we get started  
15 on the setoff issue, can I get a copy of what the settlement  
16 against the other parties amounted to? I understand it's  
17 confidential; I still need to know.

18 MR. MAYBANK: That page I gave you, Your Honor, when  
19 I said look at the last page, that sets out all the damages.

20 THE COURT: Okay. That sets it all out as to the  
21 other parties.

22 MR. BUNDY: If it please the Court, I think I have  
23 something that will make it easier still.

24 THE COURT: Have you seen this, Mr. Maybank?

25 MR. MAYBANK: No, Your Honor.

1 MR. BUNDY: There's two different settlements.

2 THE COURT: Okay. Whenever you are ready.

3 MR. BUNDY: Is that accurate?

4 MR. MAYBANK: I'm going to take your word for it.

5 MR. BUNDY: Before you start, could we mark these as  
6 exhibits? It might be easier as we walk through this. It  
7 would be easier to understand.

8 THE COURT: Which one do you want to mark first?

9 MR. BUNDY: Let's mark the --

10 MR. MAYBANK: We can mark them all A, B, and C,  
11 because I would like to then mark the one I handed up to you  
12 earlier.

13 THE COURT: I'm going to mark the one with the total  
14 2.8 as Number 1 and 3.7 as Number 2.

15 (Plaintiff's Exh. 1, Settlement Funds, was marked  
16 for identification.)

17 (Plaintiff's Exh. 2, Settlement Funds, was marked  
18 for identification.)

19 (Defendant's Exh. 1, List of Settlement Amounts,  
20 was marked for identification.)

21 MR. BUNDY: Your Honor, one more housekeeping  
22 matter. With regards to these memorandum of settlement which  
23 were confidential, the documents that underlie these exhibits  
24 with the numbers, I think those documents need to be in the  
25 record so that if it goes up, then we will have the entire

1 document in the record and marked confidential.

2 THE COURT: I don't care. It doesn't matter. I  
3 could seal these in envelopes, whatever you want to do.

4 MR. BUNDY: I've got copies here of the full  
5 documents themselves. And that outlines what parties  
6 settled, what parties didn't settle. And I believe the  
7 language in these documents could become important at some  
8 point.

9 MR. MAYBANK: I don't have a problem as long as they  
10 are under seal. I don't want to violate any confidential  
11 understanding with any other parties.

12 THE COURT: I don't either. That's why I'm saying,  
13 you want to put those in also? Because what I'm going to do  
14 is seal it all. And then for appeal, if they need to take a  
15 look at it -- Mr. Maybank, unless you've got a better  
16 suggestion.

17 MR. MAYBANK: No, they are going to be part of the  
18 record.

19 THE COURT: Mark that as Plaintiff's No. 3 then.  
20 And I'm just going to put Plaintiff's 1, 2, and 3, and  
21 Defendant's 1 on the seal prior to Appellate Court order or  
22 Circuit Court order.

23 MR. BUNDY: 3 and 4, it might be better to mark them  
24 separately since they are two separate agreements,  
25 Plaintiff's 3 and 4.

1           (Plaintiff's Exh. 3, Memorandum of Settlement, was  
2 marked for identification.)

3           (Plaintiff's Exh. 4, Mutual Settlement Agreement  
4 and Release, was marked for identification.)

5           THE COURT: 3 is the memorandum, and 4 is the mutual  
6 settlement agreement. Okay? Got them straight? Do you know  
7 which one is 1 on your sheet?

8           MR. BUNDY: Sir?

9           THE COURT: Do you know which one is 1 on your  
10 sheet?

11          MR. BUNDY: Yes, sir.

12          THE COURT: 12.8.

13          MR. BUNDY: The 4 goes with 1, and 2 and 3 go  
14 together.

15          THE COURT: All right. 2 and 3 go together and 4  
16 goes with 1. Okay?

17          MR. MAYBANK: This mutual --

18          MR. BUNDY: I'm sorry, Your Honor. 2 goes with 4;  
19 and 1 goes with 3. I apologize. So the odd ones and even  
20 ones go together.

21          THE COURT: 2 goes with 4.

22                   Anything else we need to mark?

23          MR. BUNDY: Not from the plaintiff, Your Honor.

24          MR. MAYBANK: Not from the defendant at this time  
25 that's not already been marked as an exhibit.

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In The Court of Appeals

APPEAL FROM BERKELEY COUNTY  
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Trial Case No.'s 2009-CP-08-1068, 2009-CP-08-3916,  
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SC COURT OF APPEALS

THE OAKS AT RIVERS EDGE PROPERTY OWNERS ASSOCIATION, INC., JOHN E. ATKINSON, JOAN D. STRANDQUIST, JOSEPH E. CHIOVAROU, JR., PEYTON H. COOK, JR., BRENDA COOK, JOHN W. EDELEN, KAREN A. NELSON, ROBERT J. GRAHAM, MAUREEN S. GRAHAM, NANCY K. JOHNSON as trustee for the Nancy K. Johnson Revocable Trust, WILLIAM JUNG, CHARLES MARAZITI, PATRICIA MARAZITI, GEORGE S. POLLARD, ELEANOR J POLLARD, ROBERT REECE, GERARD M RUVO AND SUE S. RUVO as trustees for the Ruvo 2006 Living Trust, CAROLYN M. JENNINGS, THOMAS EDWARD KEANE, EDWARD WALLACE BARR, III, RICHARD B. PEKRUHN, PAULINE PEKRUHN, MATTHEW J. SEVERANCE, and ELIZABETH ASHLEY PHILLIPS SEVERANCE,

Respondents,

v.

DANIEL ISLAND RIVERSIDE DEVELOPERS, LLC, CARRIAGE HILL ASSOCIATES OF CHARLESTON, LLC,

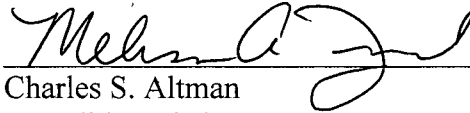
Appellants.

PROOF OF SERVICE

I certify that I have served the Record on Appeal Vol. I through Vol. VI on Respondents on April 23, 2015, addressed to its attorneys of record, W.H Bundy, Jr , Esquire, and M Brent

McDonald, Esquire, Smith, Bundy, Bybee & Barnett, P.C., 1037 Chuck Dawley Blvd., Mt.  
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April 23, 2015



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April 23, 2015

**VIA UPS OVERNIGHT DELIVERY**

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

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APR 24 2015

SC Court of Appeals

RE: The Oaks at Rivers Edge Proper Owners Association, et.al, Respondents, v Daniel Island Riverside Developers, LLC, et. al, Appellants, Case No.'s 2009-CP-08-1068, 2009-CP-08-1413, 2008-CP-08-2714, 2009-CP-08-3916  
Our File No. 141-62999

Dear Ms Kitchings.

Enclosed for filing are the following:

- (1) Motion to File Post-Trial Hearing Exhibits Under Seal (original plus six copies);
- (2) Motion to File Reduced Number of Records on Appeal (original plus six copies);
- (3) Motion to Transport Exhibit from Trial Court (original plus six copies),
- (4) Proof of Service,
- (5) Three (3) Filing Fees of \$25.00.

Sincerely,

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