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**THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

**RECEIVED**  
SEP 22 2015  
SC Court of Appeals

\_\_\_\_\_  
Appeal from Dorchester County  
Court of Common Pleas  
Diane Schafer Goodstein, Circuit Court Judge

\_\_\_\_\_  
Appellate Case No. 2015-000599  
Circuit Court Case No. 2012-CP-18-2583  
\_\_\_\_\_

Live Oak Village Homeowners Association, Inc.;  
Jennifer McFarland; Carlton Holcombe and Ute Holcombe,

Plaintiffs,

Of whom Live Oak Village Homeowners Association, Inc.;  
Jennifer McFarland and Carlton Holcombe are

Appellants,

v.

Thomas Morris; David Hannemann; Sofia Mazell and  
Michael Mazell,

Respondents.

Sofia Mazell and Michael Mazell,

Third-Party Plaintiffs,

v.

William McFarland,

Third-Party Defendant.

\_\_\_\_\_  
**APPELLANTS' MOTION FOR ACCEPTANCE OF BRIEF AND  
RETURN TO MOTIONS TO DISMISS APPEAL**  
\_\_\_\_\_

*[counsel identified on following page]*

YOUNG CLEMENT RIVERS, LLP  
Stephen L. Brown (SC Bar No. 66468)  
Russell G. Hines (SC Bar No. 72100)  
25 Calhoun Street, Suite 400  
Charleston, South Carolina 29401  
P.O. Box 993 (29402)  
(843) 720-5488

*Attorneys for Appellants*

***Additional Attorney for Appellants:***

SHELBOURNE LAW FIRM  
P. Brandt Shelbourne (SC Bar No. 15143)  
131 E. Richardson Avenue  
Summerville, South Carolina 29483  
(843) 871-2210

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA  
COURT OF APPEALS

COME NOW the Appellants above named, by and through their undersigned counsel, and move for the Initial Brief of Appellants, as well as the Appellants' Designation of Matter, conditionally filed contemporaneously herewith to be accepted for filing (and, in the same vein, the Appellants ask the Court to deny the Respondents' motions to dismiss this appeal).

On August 7, 2015, the Appellants moved for the deadline for their initial brief and designation of matter to be extended through September 8, 2015. On September 8, 2015, the Appellants moved for this deadline to be extended through September 18, 2015.

On September 10, 2015, Respondents Morris and Hannemann moved to dismiss "on the basis that the Appellants have failed to timely file their Initial Brief and Designation of Matter To Be Included In the Record On Appeal [and] have otherwise failed to prosecute their purported appeal of the trial court orders dated March 2, 12, and 13, 2015." The other Respondents, the Mazells, joined in the request for dismissal on September 11, 2015.

Unless the Court would appreciate or require further explanation or briefing on this point, the undersigned does not intend to respond to the accusation that his requests for extension are a part of an "overall litigation

strategy . . . to prejudice the[] Respondents,”<sup>1</sup> other than to deny it and state that the extension requests were made for the reasons stated therein. The undersigned would also make the point that the filing of other litigation against Messrs. Morris and Hannemann is plainly immaterial to the issue now before the Court—but, again, if the Court would appreciate or require further explanation or briefing about this, the undersigned will, of course, provide it. As for the Respondents’ charges about the timing of the appeal, as in when the appeal was taken, the Appellants took their immediate appeal in accordance with S.C. Code Ann. § 14-3-330, and there does not appear to be any challenge to appealability raised by the Respondents.

As a technical, procedural point, pursuant to Rule 240(b), SCACR, “[a] motion to dismiss an appeal . . . automatically stay[s] the time limits for perfecting the appeal until the motion is decided” and therefore stays briefing deadlines. Yesterday, the undersigned received in the mail an order from the Court extending the Appellants’ briefing deadline through September 15, 2015. While the undersigned is not certain if the Court’s order was intended to address the Appellants’ motion for extension made on August 7<sup>th</sup> or September 8<sup>th</sup>, or perhaps both, it seems clear that the Court saw fit to allow the Appellants until September 15<sup>th</sup> to serve/file their initial

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<sup>1</sup> (Morris-Hannemann Motion at p. 4.)

brief and designation of matter. Accordingly, where the Court has allowed the Appellants until September 15<sup>th</sup> to serve/file their brief/designation and the deadline for briefing/designating had already been stayed, automatically, by virtue of Respondents Morris and Hannemann's motion to dismiss on September 10<sup>th</sup>, technically, it would not appear possible for the Appellants initial brief and designation of matter to be overdue.

Perhaps more importantly, though, the undersigned stands by the language of the disputed extension requests, both as to the reasons therefore and also as to the requested relief being consistent with the interests of justice and not unduly prejudicial to the Respondents; most humbly, the undersigned submits that this same justification exists here. *Cf. Atlantic Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 332-33, 730 S.E.2d 282, 287 (2012) (Toal, C.J., dissenting) ("The primary purpose of the judiciary . . . is to serve the citizens and the business community of this state by settling disputes and promoting justice. . . . I do not believe it is our place to scour the records before us for the purpose of avoiding issues or, even worse, to play a 'gotcha' game with attorneys by showcasing their alleged mistakes, at the expense of their clients. This practice ignores the fact that behind every party name on a caption is a life-blood litigant or criminal defendant that depends on the court system to protect their economic and

liberty interests.”); Microtronics, Inc. v. S.C. Dep’t of Revenue, 345 S.C. 506, 511, 548 S.E.2d 223, 226 (Ct. App. 2001) (noting “South Carolina’s policy favoring the disposition of issues on their merits rather than on technicalities.”).

WHEREFORE, the Appellants request that the Court decline to dismiss their appeal and accept their initial brief and designation of matter for filing.

Respectfully submitted,

YOUNG CLEMENT RIVERS, LLP

By: 

Stephen L. Brown (SC Bar No. 66468)

Russell G. Hines (SC Bar No. 72100)

25 Calhoun Street, Suite 400

Charleston, South Carolina 29401

P.O. Box 993 (29402)

(843) 720-5488

*Attorneys for Appellants*

Charleston, South Carolina

Dated: 9/18/15

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William McFarland,

Third-Party Defendant.

PROOF OF SERVICE

*[counsel identified on following page]*

YOUNG CLEMENT RIVERS, LLP  
Stephen L. Brown (SC Bar No. 66468)  
Russell G. Hines (SC Bar No. 72100)  
25 Calhoun Street, Suite 400  
Charleston, South Carolina 29401  
P.O. Box 993 (29402)  
(843) 720-5488

*Attorneys for Appellants*

*Additional Attorney for Appellants:*

SHELBOURNE LAW FIRM  
P. Brandt Shelbourne (SC Bar No. 15143)  
131 E. Richardson Avenue  
Summerville, South Carolina 29483  
(843) 871-2210

I, Russell G. Hines, of Young Clement Rivers, LLP, attorneys for Appellants, do hereby certify that I have served the **APPELLANTS' MOTION FOR ACCEPTANCE OF BRIEF AND RETURN TO MOTIONS TO DISMISS APPEAL** on all Respondents by depositing a copy of the same into the United States Mail, with sufficient postage, on September 18, 2015, addressed as follows to their counsel of record:

Graham P. Powell, Esquire  
William W. Watkins, Jr., Esquire  
Katherine A. Stanton, Esquire  
Wall Templeton & Haldrup, P.A.  
P.O. Box 1200  
Charleston, SC 29402

***-and-***

Lydia P. Davidson, Esquire  
Krawcheck & Davidson, LLC  
9 State Street  
Charleston, SC 29401

***Attorneys for Thomas Morris and David Hannemann***

William B. Jung, Esquire  
William B. Jung, Esq., LLC  
1156 Bowman Road, Suite 200  
Mount Pleasant, SC 29464

***Attorney for Sofia Mazell and Michael Mazell***

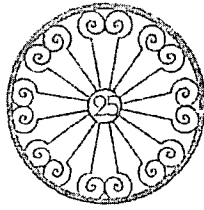
YOUNG CLEMENT RIVERS, LLP

By:   
Russell G. Hines

***Attorneys for Appellants***

Charleston, South Carolina

Dated: 9/18/15



**YCR LAW**  
Young Clement Rivers, LLP  
CELEBRATING 50 YEARS OF LEGAL SERVICE

**50 YEARS**

Kathleen B. Barnes  
Secretary

Direct Dial: (843) 720-5488  
Direct Fax: (843) 579-1369  
E-mail: kbarnes@yctrlaw.com

September 18, 2015

**VIA US MAIL AND FASCIMILE**

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

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SEP 22 2015

SC Court of Appeals

Re: Live Oak Village Homeowners Association, Inc., Jennifer McFarland and Carlton  
Holcombe v. Thomas Morris, David Hanneman, Sofia Mazell and Michael  
Mazell  
Case No.: 2015-000599  
YCR File: 15508-20150492

Dear Ms. Kitchings:

Enclosed please find the following:

1. The original and seven copies of Appellants' Motion for Acceptance of Brief and Return to Motions to Dismiss Appeal;
2. The original and one copy of the Proof of Service of same;
3. Our firm's check in the amount of \$25.00;
4. The original and two copies of Initial Brief of Appellants;
5. The original and one copy of the Proof of Service of same;
6. The original and two copies of Appellants' Designation of Matter;
7. The original and one copy of the proof of service of same.

Please file the originals and return one court stamped copy of each to me in the enclosed envelope.

With best wishes and kindest regards, I am

Sincerely,

YOUNG CLEMENT RIVERS, LLP

Kathleen B. Barnes  
Secretary

/kbb  
Enclosures

Cc: Graham P. Powell, Esquire, Wall Templeton & Haldrup, P.A.  
William W. Watkins, Jr., Esquire, Wall Templeton & Haldrup, P.A.  
Katherine A. Stanton, Esquire, Wall Templeton & Haldrup, P.A.  
Lydia P. Davidson, Esquire, Krawcheck & Davidson, LLC  
William B. Jung, Esquire, William B. Jung, Esq., LLC

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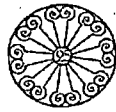
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**YCRLAW**

25 Calhoun Street, Suite 400  
P.O. Box 993  
Charleston, SC 29402-0993

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