

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

**RECEIVED**

JAN 11 2016

**SC SUPREME COURT**

APPEAL FROM Horry COUNTY  
Court of Common Pleas  
John M. Milling, Special Referee

Case Nos. 2009-CP-26-11862  
2009-CP-26-10053  
Appellate Case No. 2013-001281 and 2013-001291

Harleysville Group Insurance, a Pennsylvania  
corporation,..... Appellant/Respondent,

v.

Heritage Communities, Inc., a South Carolina  
corporation; Heritage Magnolia North, Inc., a  
South Carolina corporation; Buildstar Corporation,  
a South Carolina corporation; Magnolia North  
Horizontal Property Regime; Magnolia North  
Property Owners Association, Inc., a South  
Carolina corporation, and National Surety Corp.,..... Defendants,

Of whom Heritage Communities, Inc., a South  
Carolina corporation; Heritage Magnolia North,  
Inc., a South Carolina corporation; Heritage  
Riverwalk, a South Carolina corporation; Buildstar  
Corporation, a South Carolina corporation;  
National Surety Corp., and Tony L. Pope and Lynn  
Pope, individually and representing as a class all  
unit owners at Riverwalk at Arrowhead Country  
Club Horizontal Property Regime, are..... Respondents,

and Magnolia North Horizontal Property Regime  
and Magnolia North Property Owners Association,  
Inc., a South Carolina corporation and Riverwalk  
at Arrowhead Country Club Horizontal Property  
Regime; Riverwalk at Arrowhead Country Club  
Property Owners Association, Inc., are ..... Respondents/Appellants.

Appellate Case No. 2013-001281

AND

Harleysville Group Insurance, a Pennsylvania corporation,..... Appellant/Respondent,

v.

Heritage Communities, Inc., a South Carolina corporation; Heritage Riverwalk, a South Carolina corporation; Buildstar Corporation, a South Carolina corporation; Riverwalk at Arrowhead Country Club Horizontal Property Regime; Riverwalk at Arrowhead Country Club Property Owners Association, Inc., a South Carolina Corporation, National Surety Corp., and Tony L. Pope and Lynn Pope, individually and representing as a class all unit owners at Riverwalk at Arrowhead Country Club Horizontal Property Regime, ..... Defendants,

Of whom Heritage Communities, Inc., a South Carolina corporation; Heritage Riverwalk, a South Carolina corporation; Buildstar Corporation, a South Carolina corporation; National Surety Corp., and Tony L. Pope and Lynn Pope, individually and representing as a class all unit owners at Riverwalk at Arrowhead Country Club Horizontal Property Regime, are..... Respondents,

and Riverwalk at Arrowhead Country Club Horizontal Property Regime; Riverwalk at Arrowhead Country Club Property Owners Association, Inc., are ..... Respondents/Appellants.

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Appellate Case No. 2013-001291  
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**APPELLANT/RESPONDENT’S MOTION TO ARGUE AGAINST PRECEDENT**  
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Pursuant to Rule 217 of the South Carolina Appellate Court Rules, Appellant/Respondent Harleysville Group Insurance (“Harleysville”) hereby moves this Court to allow it to orally argue against precedent in the above-captioned matter under the circumstances set forth below.

The basis for this motion is that the Respondent/Appellant has argued in its briefs that *Auto Owners v. Newman*, 385 S.C. 187, 684 S.E.2d 541 (2009) controls certain issues in this matter, namely whether Harleysville could or should have intervened in the underlying liability suits against its insureds or whether Harleysville should otherwise have urged the use of an special verdict form in those trials. Harleysville disagrees that Newman controls and asserts *Newman* is distinguishable. However, to the extent the Court agrees with the Respondent/Appellant, then Harleysville respectfully urges that *Newman* should be overruled in such part. Accordingly, Harleysville hereby moves pursuant to Rule 217, SCACR, to conditionally orally argue against precedent.

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Attorneys for Appellant/Respondent Harleysville

January 11, 2016  
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM HORRY COUNTY  
Court of Common Pleas  
John M. Milling, Special Referee

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Harleysville Group Insurance, a Pennsylvania corporation,..... Appellant/Respondent,

v.

Heritage Communities, Inc., a South Carolina corporation; Heritage Magnolia North, Inc., a South Carolina corporation; Buildstar Corporation, a South Carolina corporation; Magnolia North Horizontal Property Regime; Magnolia North Property Owners Association, Inc., a South Carolina corporation, and National Surety Corp.,..... Defendants,

Of whom Heritage Communities, Inc., a South Carolina corporation; Heritage Magnolia North, Inc., a South Carolina corporation; Heritage Riverwalk, a South Carolina corporation; Buildstar Corporation, a South Carolina corporation; National Surety Corp., and Tony L. Pope and Lynn Pope, individually and representing as a class all unit owners at Riverwalk at Arrowhead Country Club Horizontal Property Regime, are ..... Respondents,

and Magnolia North Horizontal Property Regime and Magnolia North Property Owners Association, Inc., a South Carolina corporation and Riverwalk at Arrowhead Country Club Horizontal Property Regime; Riverwalk at Arrowhead Country Club Property Owners Association, Inc., are ..... Respondents/Appellants.

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Appellate Case No. 2013-001281

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AND

Harleysville Group Insurance, a Pennsylvania corporation,..... Appellant/Respondent,

v.

Heritage Communities, Inc., a South Carolina corporation; Heritage Riverwalk, a South Carolina corporation; Buildstar Corporation, a South Carolina corporation; Riverwalk at Arrowhead Country Club Horizontal Property Regime; Riverwalk at Arrowhead Country Club Property Owners Association, Inc., a South Carolina Corporation, National Surety Corp., and Tony L. Pope and Lynn Pope, individually and representing as a class all unit owners at Riverwalk at Arrowhead Country Club Horizontal Property Regime, ..... Defendants,

Of whom Heritage Communities, Inc., a South Carolina corporation; Heritage Riverwalk, a South Carolina corporation; Buildstar Corporation, a South Carolina corporation; National Surety Corp., and Tony L. Pope and Lynn Pope, individually and representing as a class all unit owners at Riverwalk at Arrowhead Country Club Horizontal Property Regime, are..... Respondents,

and Riverwalk at Arrowhead Country Club Horizontal Property Regime; Riverwalk at Arrowhead Country Club Property Owners Association, Inc., are ..... Respondents/Appellants.

Appellate Case No. 2013-001291

PROOF OF SERVICE

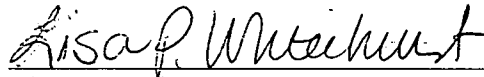
I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant/Respondent, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by email and United States Mail, postage prepaid, to the following address(es):

Pleadings:

Motion to Argue Against Precedent

Counsel Served:

John P. Henry, Esquire  
Thompson & Henry  
1300 Second Avenue, 3<sup>rd</sup> Floor  
Conway, SC 29528



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Lisa P. Whitehurst  
Administrative Assistant

January 11, 2016