

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Stephanie P. McDonald, Circuit Court Judge

---

Case No. 2010-CP-10-10490

---

RECEIVED  
JAN 19 2016  
SC Court of Appeals

Brad J. Walbeck, and Lea Ann Adkins, individually and derivatively on behalf of I'On Assembly, Inc., and I'On Assembly, Inc.,

Respondents,

v.

The I'On Company, LLC, The I'On Club, LLC, The I'On Group, LLC f/k/a Civitas, LLC,  
and I'On Realty, LLC

Appellants.

---

**DESIGNATION OF MATTER TO BE INCLUDED  
IN THE RECORD ON APPEAL**

---

COMES NOW the Respondents, Brad J. Walbeck and Lea Ann Adkins, individually and derivatively on behalf of I'On Assembly, Inc., pursuant to Rule 208 of the South Carolina Appellate Court Rules, and designates the following to be included in the Record of Appeal:

I. Orders

1. Order Denying Defendants' Motion to Dismiss, March 15, 2012

2. Order Denying Defendants' Motion for Summary Judgment, November 16, 2012
3. Order Sealing Confidential Term Sheet, February 20, 2014
4. Order Realigning I'On Assembly, February 26, 2014
5. Order Consolidating Declaratory Action, June 20, 2014
6. Verdict Form, August 1, 2014
7. Judgment, August 11, 2014
8. Order Denying Defendants' JNOV Motion, July 16, 2015
9. Order Denying I'On Company's Fee Petition, July 16, 2016
10. Order Declaring 2000 Easement Void and Invalid, July 16, 2016
11. Order Granting Walbeck's Fee Petition, July 16, 2015
12. Order Finding Defendants in Contempt for Destruction of Evidence, July 16, 2015

II. Pleadings

1. Complaint and Verification, December 22, 2010
2. Amended Complaint and Verification, March 8, 2011
3. Defendants' Motion to Dismiss, May 27, 2011
4. Second Amended Complaint and Verifications, February 7, 2012
5. Third Amended Complaint and Verifications, January 2, 2014
6. Defendants' Complaint for Declaratory Judgment (Case No. 2014-CP-10-2984), May 12, 2014
7. Defendants' Motion to Amend Answer to Third Amend Complaint and Counterclaims, June 6, 2014
8. Fourth Amended Complaint and Verifications, June 16, 2014
9. Defendants' Answer to Fourth Amended Complaint and Amended Counterclaims, July 18, 2014

10. Defendants' Motion in Limine to Exclude Evidence of Settlement, July 10, 2014
11. Defendants' Motion for JNOV, August 11, 2014
12. Plaintiffs' Memorandum in Opposition to Defendants' Motion for JNOV, September 4, 2014
13. Walbeck's Fee Petition (with Exhibit) August 11, 2014 and Supplemental Memorandum in Support, September 3, 2014
14. Plaintiffs' Easement Motion, August 11, 2014 and Brief in Support of Judgment, August 11, 2014
15. Plaintiffs' Opposition to Defendant I'On Company, LLC's Fee Petition
16. Defendants' Memo. in Opp. to Plaintiffs' Motion in Support of Judgment on the Validity of the 2000 Recreational Easement, August 25, 2014

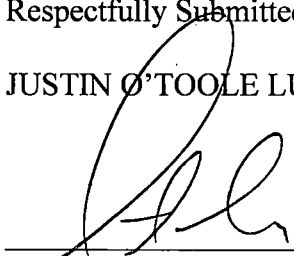
### III. Evidence

1. January 2014 Trial Transcript: 739:22-24
2. Trial Transcript: Respondents adopt Appellants' designation of the entire transcript as a part of the Record on Appeal.
3. Plaintiffs' Trial Exhibits: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 26, 28, 29, 30, 31, 32, 33, 34, 36, 36(a), 37, 38, 40, 41, 42, 43, 44(a), 45, 46, 47, 48, 49, 51, 52, 53, 54, 55, 56, 57, 58(a), 59, 60, 61, 62, 62(a), 63, 64, 65, 65(a), 66, 67, 68, 71, 72, 75, 75, 76, 77, 85, 85, 86, 88, 90, 102, 103, 108, 109, 111, 111(a), 115, 115(a), 116, 116(a), 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 129, 130, 131, 132, 133, 134, 135, 136, 137, 139, 140, 141, 142, 143, 145, 146, 147, 148, 150, 154, 155(a), 156, 167, 168, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 200, 201, 202, 203, 204, 205, 208, 209, 210, 212, 213, 214, 215, 216, 217, 218, 220, 221, 222, 223, 224, 225, 227, 228, 230, 231
4. Defendants' Trial Exhibits: 25, 27, 38, 39, 40, 41, 42, 43, 44, 49, 76, 77, 78, 79, 80, 81, 106, 108, 109, 113, 118, 121, 123, 124, 125, 127, 128, 129, 137
5. Court Exhibits: 2, 5

Pursuant to Rule 208(c), SCACR, the undersigned, Justin O'Toole Lucey, Esquire, certifies that this Designation of Record on Appeal contains no matter which is irrelevant to this appeal.

Respectfully Submitted,

JUSTIN O'TOOLE LUCEY, P.A.



---

Justin O'Toole Lucey, Esquire  
SC Bar No.: 15438  
Dabny Lynn, Esquire  
SC Bar No.: 78703  
415 Mill Street  
Mount Pleasant, South Carolina 29464  
Telephone: 843.849.8400  
Telecopier: 843.849.8406  
E-Mail: [jlucey@lucey-law.com](mailto:jlucey@lucey-law.com)  
E-Mail: [dlynn@lucey-law.com](mailto:dlynn@lucey-law.com)  
*Attorneys for the Respondents*

Mt. Pleasant, SC  
January 11, 2016

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

RECEIVED

The Honorable Stephanie P. McDonald, Circuit Court Judge JAN 19 2016

SC Court of Appeals

Case No. 2010-CP-10-10490

Brad J. Walbeck and Lea Ann Adkins, individually and derivatively on behalf of I'On Assembly, Inc., and I'On Assembly, Inc.,

Respondents,

v.

The I'On Company, LLC, The I'On Club, LLC, The I'On Group, LLC f/k/a Civitas, LLC, and I'On Realty, LLC

Appellants.

---


**PROOF OF SERVICE**

---

I, Justin Lucey, Esquire, hereby certify that on January 11, 2106, I have served a copy of the **Designation of Matter to be Included in the Record on Appeal of Respondents Brad J. Walbeck and Lea Ann Adkins, individually and derivatively on behalf of I'On Assembly, Inc.** by U.S. mail to the attorneys of record as follows:

Brian C. Duffy, Esq.  
Seth W. Whitaker, Esq.  
Julie L. Moore, Esq.  
Duffy & Young, LLC  
96 Broad Street  
Charleston, SC 29401  
*Attorneys for Appellants*

Timothy W. Bouch, Esq.  
Yancey A. McLeod, III, Esq.  
Leath Bouch & Seekings  
92 Broad Street  
Charleston, SC 29401  
*Attorneys for Respondent I'On Assembly, Inc.*

By:   
Alicia M. Benton, Paralegal

Charleston, South Carolina  
January 11, 2016

# JUSTIN O'TOOLE LUCEY, PA

Attorney at Law

Justin Lucey  
Joshua F. Evans  
Stephanie D. Drawdy  
Dabny Lynn  
James L. Floyd, III

415 Mill Street, Mount Pleasant, SC 29464  
Phone: 843.849.8400 · Fax: 843.849.8406 · office@lucey-law.com

Reply to:  
P.O. Box 806  
Mount Pleasant, SC 29465

January 11, 2016

**BY U.S. MAIL**

The Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court Of Appeals  
P.O. Box 11629  
Columbia, SC 29201

RECEIVED  
JAN 19 2016  
SC Court of Appeals

Re: *Brad J. Walbeck and Lea Ann Adkins, Individually and Derivatively on Behalf of  
The I'On Assembly, Inc., et al. v. The I'On Company, LLC, et al.*  
Civil Action No.: 2010-CP-10-10490  
Appellate Case No.: 2015-001590

Dear Ms. Kitchings:

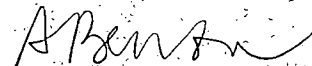
I hope this finds you well. Enclosed please find the original and one (1) copy of the following documents in the above-referenced matter, which are being submitted on behalf of Respondents Brad J. Walbeck and Lea Ann Adkins, Individually and Derivatively on behalf of The I'On Assembly, Inc.:

1. *Initial Brief of the Respondents;*
2. *Respondents' Designation of Matter to be Included in the Record on Appeal; and*
3. *Respondents' Proof of Service.*

I would greatly appreciate if you would file these pleadings with the Court of Appeals and return a file-stamped copy of each to my attention in the enclosed envelope.

If you need anything else, or if I otherwise may be of any assistance to you or to the Court of Appeals regarding this matter, please feel free to contact me.

Best regards,



Alicia M. Benton  
Paralegal to Justin O. Lucey

Enclosures (as stated)

cc: Brian C. Duffy, Esq.  
Seth W. Whitaker, Esq.  
Julie L. Moore, Esq.  
Timothy W. Bouch, Esq.  
Yancey A. McLeod, III, Esq.



JUSTIN O'TOOLE LUCEY, PA

ATTORNEYS AT LAW

415 MILL STREET • P.O. BOX 806 • MT. PLEASANT, SC.29465-0806

1701  
Main

RECEIVED

JAN 19 2016

SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court Of Appeals  
P.O. Box 11629  
Columbia, SC 29201