

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM BERKELEY COUNTY CIRCUIT COURT
Roger M. Young, Sr., Circuit Court Judge

JUN 10 2016

SC Court of Appeals

Civil Action Nos.: 14-CP-08-1231, 14-CP-08-1232
Appellate Case No.: 2016-000521

Estate of John Fortney, Deceased,
By His Duly Appointed Personal
Representative, Constance S. Fortney,..... Appellant,

v.

Berkeley Electric Cooperative,.....Respondent.

AND

John Steven Robinson,.....Appellant,

v.

Berkeley Electric Cooperative,.....Respondent.

DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

Pursuant to Rule 209, SCACR, Appellants designate the following items for inclusion in
the Record on Appeal:

Orders:

1. Order Berkeley County dated February 16, 2016;
2. Probate Court Order dated 8/6/08;

Pleadings:

1. Fortney Wrongful Death Complaint dated 5/27/14;

2. Fortney Survival Action dated 5/27/14;
3. Answer of the Defendant (Wrongful Death) dated 6/16/14;
4. Answer of the Defendant (Survival) dated 6/16/14;
5. Robinson Complaint 5/27/14;
6. Answer of the Defendant (Robinson) dated 6/16/14;
7. Discovery Response dated 9/16/09;
8. Discovery Response dated 3/18/11;
9. Appellant's Pre-Trial Brief dated 9/22/15;
10. Respondent's Pre-Trial Brief dated 10/21/13;
11. Appellant's Memorandum on Apportionment dated 9/25/15;
12. Stipulation that all orders apply;
13. Appellants' Proposed Order dated 12/14/15;
14. Respondent's Proposed Order dated 12/29/15;
15. Respondent's Proposed Order dated 12/14/15;

Transcripts:

16. Transcript of Hearing dated 9/28/15-10/2/15;
17. Deposition transcript of Anthony Wilks dated 7/16/12;

Correspondence:

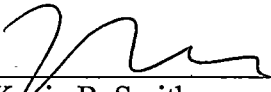
18. Email correspondence dated 12/14/15 (Respondent submits proposed Order);
19. Email correspondence dated 12/29/15 (Respondent submits 2nd proposed Order);
20. Email correspondence dated 12/29/15 (Appellants objections);
21. Email correspondence dated 12/30/15 (Court directing positions to be stated);
22. Email correspondence dated 12/30/15 (Appellants objections/positions);

Exhibits:

23. RUS 300 Forms dated 1990-2008;
24. RUS Memo dated 1/26/98;
25. 7 C.F.R. §1730.21;
26. 1993 NESC §210-420;
27. B.E.C. Safety Manual dated 2006;
28. 2002-2003 Pole Inspection Contract dated 10/30/01;
29. Line Measurements dated 5/29/08;
30. Line Measurements dated 4/23/08;
31. Staking Sheet dated 2/1/93;
32. Job Description (undated);
33. Maintenance Records dated 4/3/89-3/6/09;
34. Aerial Image of Thornhill Farms dated 1993;
35. Aerial Image of Thornhill Farms dated 2015;
36. Aerial Image of Thornhill Farms dated 2015;
37. Showdeo Promotional Plan dated 2/28/08;
38. Photo of tents dated 4/23/08;
39. Photo of tents dated 4/23/08;
40. Photo of tents dated 4/23/08;
41. Photo of tents dated 4/23/08;
42. Photo of tents dated 4/23/08;
43. Photo of tents dated 4/23/08;
44. Photo of tents dated 4/23/08;

45. Photo of power pole dated 4/23/08;
46. Photo of power pole dated 4/23/08;
47. Cathleen Moore CV dated January 2014.

June 8, 2016



Kevin B. Smith
Hoffman Law Firm
7087 Rivers Avenue
N. Charleston, SC 29406
(843) 769-7077
ksmith@hoffmanlaw.net

Don C. Keenan
Andrew Gould
Keenan Law Firm
148 Nassau Street, N.W.
Atlanta, GA 30303-2010
(800) 677-2025
dkeenan@keenanolawfirm.com

Attorneys for Appellants

Other Counsel of Record:
Pope D. Johnson, III, Esquire
1230 Richland Street
Columbia SC 29201
(803) 730-1078
pope@popejohnsonlaw.com

John B. Williams, Esquire
Williams & Hulst, LLC
P.O. Box 1288
Moncks Corner SC 29461
(843) 761-8232
jbw@williamsandhulst.com

Attorneys for Respondent

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PROOF OF SERVICE

I certify that I have served the Appellants' Initial Brief, Designation of Matter to be Included in the Record on Appeal, and Certificate of Counsel addressed to the attorneys of record as follows: Pope D. Johnson, III, Esquire, 1230 Richland Street, Columbia, SC 29201 and John B. Williams, Esquire, Williams & Hults, LLC, P.O. Box 1288, Moncks Corner, SC 29461, and to the Berkeley County Court of Common Pleas for the Ninth Judicial Circuit, 300 California Avenue, Moncks Corner, SC 29461.

June 8, 2016



Kevin B. Smith
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N. Charleston, SC 29406
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ksmith@hoffmanlaw.net

Don C. Keenan
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148 Nassau Street, N.W.
Atlanta, GA 30303-2010
Don C. Keenan, Esq.
The Keenan Law Firm
148 Nassau Street, N.W.
Atlanta GA 30303-2010
(800) 677-2025
dkeenan@keenanlawfirm.com

Attorneys for Appellants

 **HOFFMAN**
LAW FIRM, LLC

DAVID L. HOFFMAN, JR.
KEVIN B. SMITH
MATTHEW R. COOK
S. BRICE PEPPER

843-769-7077
FAX: 843-769-4567
TOLL FREE: 1-888-769-7177
WWW.HOFFMANLAW.NET

7087 RIVERS AVENUE
N. CHARLESTON, S.C. 29406
CONTACT@HOFFMANLAW.NET

June 8, 2016

RECEIVED
JUN 10 2016
SC Court of Appeals

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

RE: Estate of John Fortney, deceased, by his duly appointed Personal Representative
Constance S. Fortney and John Steven Robinson v. Berkeley Electric Cooperative
Ct. App. Case No.: 2016-000521
Date of Accident: 4/23/08

Dear Ms. Kitchings:

Enclosed please find for filing the original and one copy of the Appellant's Initial Brief, Designation of Matter to be Included in the Record on Appeal, and Certificate of Counsel in the above-referenced matter. Also enclosed is the original and one copy of Proof of Service of these items upon opposing counsel. Please return a file-stamped copy of the Proof of Service to me in the self-addressed, stamped envelope enclosed for your convenience.

By copy hereof to Pope D. Johnson, III, Esquire and John B. Williams, Esquire, Attorneys for the Employer/Carrier (Respondents), I am serving upon the Respondents a copy of the Initial Brief, Designation of Matter to be Included in the Record on Appeal, and Certificate of Counsel.

Thank you very much for your assistance in this matter. With kind regards, I am

Sincerely,



Kevin B. Smith

KBS/jhd

Enclosure

cc: Constance S. Fortney, PR for the Estate of John Fortney
John Robinson
Pope D. Johnson, III, Esquire
John "Jack" Williams, Esquire
Don C. Keenan, Esquire
Andrew Gould, Esquire