

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Cynthia Graham Howe
Master-in-Equity, Fifteenth Judicial Circuit

Case No.: 2009-CP-26-620

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DEC 06 2016

SC Court of Appeals

Ellis E. Smith, individually and on behalf of A&E Constructors and Consultants, Inc., a
South Carolina Corporation Plaintiffs,

vs.

Arthur Wayne Vereen, Park Place Properties of Myrtle Beach, LLC, Parkway Offices,
LLC, Arthur Vereen Construction, Inc., Linda C. Vereen, Arthur W. Vereen, as Trustee of
the Arthur W. Vereen Residence Trust, and Linda C. Vereen, as Trustee of the Linda C.
Vereen Residence Trust, Defendants,

AND

Arthur Wayne Vereen, individually and on behalf of A&E Constructors and Consultants,
Inc. and 29th Place Developers, Inc., Third-Party Plaintiffs,

vs.

E. Smith and Sons Construction, LLC, EES Construction and Consulting, Inc. and Ellis
E. Smith, individually, Third-Party Defendants.

OF WHOM Arthur Wayne Vereen, individually and on behalf of A&E Constructors and
Consultants, Inc., Park Place Properties of Myrtle Beach, LLC, Parkway Offices, LLC,
Arthur Vereen Construction Company, Inc., Linda C. Vereen, Arthur W. Vereen, as
Trustee of the Arthur W. Vereen Residence Trust, Linda C. Vereen, as Trustee of the
Linda C. Vereen Residence Trust and 29th Place Developers, Inc. are Appellants,

AND

Ellis E. Smith, individually and on behalf of A&E Constructors and Consultants, Inc., a
South Carolina Corporation and E. Smith and Sons Construction, LLC, EES Construction
and Consulting, Inc. and Ellis E. Smith, individually are Respondents.

APPELLANTS' RETURN TO RESPONDENTS' MOTION TO RECONSIDER

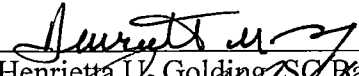
On November 16, 2016, this Court issued an Order holding this appeal in abeyance pending the Supreme Court's final disposition of *Wells Fargo Bank, N.A. v. Fallon Properties S.C., LLC*, 413 S.C. 642, 776 S.E.2d 575 (Ct. App. 2015). On November 23, 2016, Respondents filed a Motion to Reconsider the Order holding this appeal in abeyance. Respondents' Motion is improper pursuant to Rule 221(c) of the Appellate Court Rules. Rule 221(c) provides, "the appellate court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal."

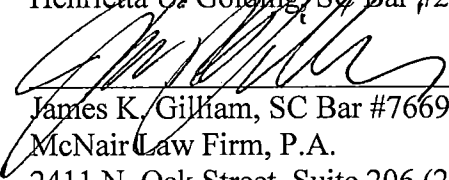
Here, this Court's Order holding the appeal in abeyance neither has the effect of dismissing the appeal, nor finally decides this appeal. Therefore, according to Rule 221(c), this Court should not entertain this Motion and should deny it.

Respectfully Submitted,

Dated: December 5, 2016

MCNAIR LAW FIRM, P.A.


Henrietta U. Golding, SC Bar #2173


James K. Gilliam, SC Bar #76695

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Attorneys for Appellants

THE STATE OF SOUTH CAROLINA
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APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Cynthia Graham Howe
Master-in-Equity, Fifteenth Judicial Circuit

Case No.: 2009-CP-26-620

Ellis E. Smith, individually and on behalf of A&E Constructors and Consultants, Inc., a South Carolina Corporation Plaintiffs,

vs.

Arthur Wayne Vereen, Park Place Properties of Myrtle Beach, LLC, Parkway Offices, LLC, Arthur Vereen Construction, Inc., Linda C. Vereen, Arthur W. Vereen, as Trustee of the Arthur W. Vereen Residence Trust, and Linda C. Vereen, as Trustee of the Linda C. Vereen Residence Trust, Defendants,

AND

Arthur Wayne Vereen, individually and on behalf of A&E Constructors and Consultants, Inc. and 29th Place Developers, Inc., Third-Party Plaintiffs,

vs.

E. Smith and Sons Construction, LLC, EES Construction and Consulting, Inc. and Ellis E. Smith, individually, Third-Party Defendants.

OF WHOM Arthur Wayne Vereen, individually and on behalf of A&E Constructors and Consultants, Inc., Park Place Properties of Myrtle Beach, LLC, Parkway Offices, LLC, Arthur Vereen Construction Company, Inc., Linda C. Vereen, Arthur W. Vereen, as Trustee of the Arthur W. Vereen Residence Trust, Linda C. Vereen, as Trustee of the Linda C. Vereen Residence Trust and 29th Place Developers, Inc. are Appellants,

AND

Ellis E. Smith, individually and on behalf of A&E Constructors and Consultants, Inc., a South Carolina Corporation and E. Smith and Sons Construction, LLC, EES Construction and Consulting, Inc. and Ellis E. Smith, individually are Respondents.

PROOF OF SERVICE

I, Carole Koerner, an employee of McNair Law Firm, P.A., attorneys for Appellants, Arthur Wayne Vereen, individually and on behalf of A&E Constructors and Consultants, Inc., Park Place Properties of Myrtle Beach, LLC, Parkway Offices, LLC, Arthur Vereen Construction Company, Inc., Linda C. Vereen, Arthur W. Vereen, As Trustee of the Arthur W. Vereen Residence Trust, Linda C. Vereen, As Trustee of the Linda C. Vereen Residence Trust, and 29th Place Developers, Inc. in the above-entitled action, certify that I have served **APPELLANTS' RETURN TO RESPONDENTS' MOTION TO RECONSIDER** and Proof of Service on Counsel of Record to this matter by depositing a copy in the United States Mail, first class postage prepaid on the 5th day of December, 2016 as follows:

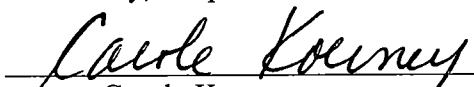
OTHER COUNSEL OF RECORD:

Frank H. DuRant, Esquire
DuRant and Martin
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Myrtle Beach, SC 29578-0960
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Attorneys for Ellis E. Smith, individually and on behalf of A&E Constructors and Consultants, Inc., and EES Construction and Consulting, Inc., Respondents

J. Jackson Thomas, Esquire
Thompson & Henry, P.A.
1314 Professional Drive
Myrtle Beach, SC 29577
Phone: (843) 692-2628
Email: jthomas@myrlaw.com

Attorneys for E. Smith and Sons Constructions, LLC, EES Construction and Consulting, Inc. and Ellis E. Smith, Individually, Respondents



Carole Koerner

Myrtle Beach, South Carolina

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SC Court of Appeals

December 5, 2016

James K. Gilliam

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T (843) 444-1107
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The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211

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SC Court of Appeals

Re: Ellis Smith v. Arthur Vereen
Appellate Case no.: 2016-001075
Our file #: 064758.00001

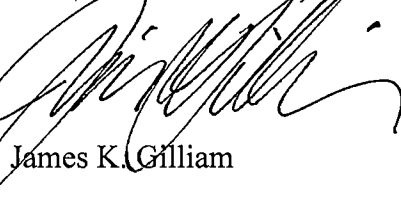
Dear Ms. Kitchings:

Enclosed for filing is an original and seven copies of **Appellants' Return to Respondents' Motion to Reconsider** and Proof of Service in the above matter.

Please return one filed copy of the Return and Proof of Service in the enclosed, self-addressed stamped envelope. By copy of this letter, and as indicated in the Proof of Service, we are serving Counsel of Record.

Sincerely,

McNAIR LAW FIRM, P.A.



James K. Gilliam

JKG/ck

cc: Frank H. DuRant, Esquire
J. Jackson Thomas, Esquire
Clients (via email)


Enclosures

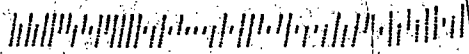
McNAIR LAW FIRM, P.A.
Founders Centre
2411 Oak Street, Suite 206
Myrtle Beach, SC 29577

Mailing Address
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mcnair.net



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ATTORNEYS

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