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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
R. Lawton McIntosh, Circuit Court Judge 15th Judicial Circuit

Civil Action No. 2014-CP-26-08367
2014-CP-26-03362 (formerly 2013-CP-02816)

RECEIVED

JAN 23 2017

SC Court of Appeals

Appellate Case No. 2016-001328

Gabriel Barnhill & GSB Enterprises LLC Respondents,

v.

J Floyd Swilley, J Floyd Swilley Investment Advisors, Laurel K Swilley, SMG Partners LLC, SMS Services LP, William C Piner, WCP Limited LLC, 809 Holdings LP, QC Financing LLC, Heath Causey, and Sage Financial Group LLC, J Floyd Swilley, SMG Partners LLC, Alicia Piner, Heath Causey, Sage Advisory Group LP, Sage Private Equity Group LLC, Secured Asset Factoring Exchange, Inc, SAFE, Inc, Digics, LLC, 9-1-1 Plumbing, LLC, and Sage Funding, LP and Christopher Pitcock,

Defendants

of whom J Floyd Swilley, Laurel K Swilley
and Heath Wendell Causey, are the Appellants.

MOTION TO STRIKE RESPONDENTS' INITIAL BRIEF

Appellants Laurel Swilley and Floyd Swilley by counsel hereby respectfully moves before the Court to strike the initial response brief and designation of record filed by the Appellees.. For the reasons set forth below the Respondents' Brief should be stricken.

The Respondent requested an extension of time to file the initial brief on August 29, 2016. The initial request was granted on August 31, 2016. On October 13, 2016, the Respondent requested a second extension to file his initial brief.

This Honorable Court entered its Order of October 17, 2016 in response to the Respondent's second request for extension of time, in which this Honorable Court stated as follows:

"The time for serving and filing the respondents' initial brief and designation of matter is hereby extended until October 31, 2016. No further extension shall be granted absent extraordinary circumstances."

Therefore, pursuant the Order of October 17, 2016 the respondent's initial brief was to be filed no later than October 31, 2016. The record reflects the respondent's initial brief was filed on December 29, 2016 some 59 days post the final extension date. The plain language of the Order of October 31, 2016 is clear the final date for filing the Respondent's Initial Response Brief was October 31, 2016. The record further reflects that there were no subsequent Motions citing extraordinary circumstances. Thus, we respectfully submit that the respondents' initial brief should be struck as untimely.

SIGNATURE PAGE TO FOLLOW

I SO MOVE:



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Attorney for Appellants Swilleys

Counsel of Record:

Nate Fata, PA
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Surfside Beach, SC 29587
Attorney for Respondents

Heath W Causey, Pro Se Appellant
1705 N Oak Street Suite 2
Myrtle Beach, SC 29577
Pro Se Appellant

Christopher Pitcock
24242 Branchwood Court
Lutz, FL 33559
Pro Se Defendant

SIGNATURE PAGE FOR APPELLANTS' MOTION TO STRIKE RESPONDENTS' INITIAL BRIEF

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Defendants

of whom J Floyd Swilley, Laurel K Swilley
and Heath Wendell Causey, are the Appellants.

PROOF OF SERVICE

I certify that I have served the **Appellants' Motion to Strike Respondents' Brief**
by depositing copy with the U.S. Postal Service, postage prepaid on December 3, 2016,

addressed to the following attorneys of record and pro se defendants:

Counsel of Record:

Nate Fata, P.A.
P.O. Box 16620
Surfside Beach, SC 29587
T: 843.238.2676
Attorney for Respondents

Pro Se Defendant:

Heath Causey
1035 Pinwheel Loop
Myrtle Beach, SC 29577

Christopher Pitcock
24242 Branchwood Court
Lutz, FL 33559
Pro Se Defendant

A handwritten signature in black ink, appearing to read "F. Miles Adler", written over a horizontal line.

F. Miles Adler

F. MILES ADLER

ATTORNEY AT LAW

January 20, 2017

VIA US MAIL

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

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JAN 23 2017

SC Court of Appeals

Re: Gabriel Barnhill and GSB Enterprises, LLC v J. Floyd Swilley at al.
C/A No.: 2014-CP-26-08367
Appellate Case No.: 2016 - 001328

Dear Ms. Kitchings:

Enclosed herewith please find the original and six (6) copies of Appellant's Motion to Strike Respondents' Brief along with a check in the amount of \$25.00 which constitutes the filing fee.

I would ask that you please file same with the Court's records. Counsel and parties of record have been served by copy of this letter.

Sincerely,



F. Miles Adler

Enclosures: as stated

cc: Swilley Appellants
Nate Fata (w/ enc.)
Heath Causey, Pro Se (w/ enc.)
Christopher Pitcock (w/ enc.)

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The Honorable Jenny Abbot Kitchings
Clerk of Court
South Carolina Court of Appeals
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