

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

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Civil Action No. 2007-CP-07-3212  
**Appellate Case No.: 2016-001277**

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**RECEIVED**

FEB 13 2017

**SC Court of Appeals**

H. Marshall Hoyler.....Appellant,

v.

The State of South Carolina, Merry Land Properties, LLC,  
Sherbert Living Trust, Supan Living Trust, Elizabeth R. Levin,  
Edward McCray Wise Revoc. Living Trust,  
Carol Ann Devries Wise Revoc. Living Trust,  
Amelie Cromer, Philip Cromer, Robert Chiavello, Tocharoen Living Trust,  
Helen M. Olesak, Lesley Anne Glick a/k/a Lesley Anne Glick,  
Shirley G. Lackey, Patricia Banfield, Bertrand Cooper, Jr.,  
NHP SH South Carolina I, LLC n/k/a CCP Bayview 7176 LLC,  
Oyster Cove Homeowners Assn., Shirley Ann Moyer,  
Barry D. Malphrus, Garry D. Malphrus, Donnie Malphrus,  
Rita Brown, Houston Family Partnership, Joan Taylor Trustee,  
Michael Bull, Nancy Bull, Marny H. VonHarten, Dianne M. Donaldson,  
Brian R. Evans, Stephen Durbin, Valerie Durbin, Phillip Marti,  
Jane Marti, Michael Woodworth, Georgiana M. Cooke, Daniel B. Walsh,  
Janet E. Walsh.....Respondents.

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**APPELLANT'S DESIGNATION OF MATTER TO BE INCLUDED IN THE  
RECORD ON APPEAL CONCURRENT WITH APPELLANT'S INITIAL  
REPLY BRIEF TO THE STATE'S INITIAL BRIEF**

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ORIGINAL

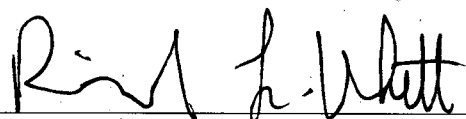
Appellant proposes the following is to be included in the Record on Appeal:

1. Post-Trial [Reply] Memorandum of State of South Carolina, dated April 11, 2016, pages 2, 3, 4, with transmitting e-mail;
2. Post-Trial Brief of State of South Carolina dated March 25, 2016, page 3, with transmitting e-mail;
3. Cook Transcript Pages 268, 269;
4. Gardner Transcript Pages 27, 30, 42, 43, 49;
5. Transcript Pages 167, 304, 305, 306, 308, 309, 310; and
6. Trial Exhibits "2" and "2A";
7. E-mail from Hon. Marvin H. Dukes, III dated April 21, 2016.

Appellant's counsel hereby certifies that the Designation of Matter, contains no matter which is irrelevant to the Appeal.

**AUSTIN & ROGERS, P.A.**

By:



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**Attorneys for Appellant.**

February 13, 2017  
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
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Marvin H. Dukes, III, Master-In-Equity

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Janet E. Walsh.....Respondents.

**PROOF OF SERVICE**

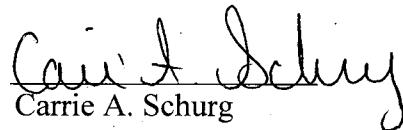
I, Carrie A. Schurg, an employee of Austin & Rogers, P.A., certify that I have  
caused the following to be served via U.S. Mail as addressed below on February 13, 2016.

**ORIGINAL**

- 1) Initial Reply Brief of Appellant to Initial Brief of Respondent, State of South Carolina,
- 2) Appellant's Designation of Matter to be Included in Record on Appeal Concurrent with Appellant's Initial Reply Brief to the State's Initial Brief; and
- 3) Proof of Service.

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Carrie A. Schurg

February 13, 2017  
Columbia, South Carolina

# Austin & Rogers, P.A.

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OF COUNSEL:  
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\* ALSO ADMITTED IN N.C.

February 13, 2017

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**SC Court of Appeals**

**VIA HAND-DELIVERY**

The Honorable Jenny Abbott Kitchings,  
Clerk of Court, South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

- Re: ● H. Marshall Hoyler v. The State of South Carolina, *et al.*  
● Appellate Case No.: **2016-001277**  
● Appellant's Initial Reply to State's Initial Brief and Designation of Matter

Dear Ms. Kitchings:

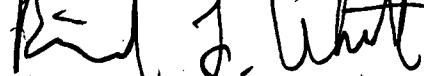
Enclosed for filing, please find the following:

1. Initial Reply Brief of Appellant to Initial Brief of Respondent, State of South Carolina;
2. Appellant's Designation of Matter to be Included in Record on Appeal Concurrent with Appellant's Initial Reply Brief to the State's Initial Brief; and
3. Proof of Service.

Please accept these documents for filing and acknowledge receipt of the same by file-stamping the copies enclosed and returning them to me, via our courier. If you have any questions or need additional information, please don't hesitate to contact the undersigned. With best regards, I am,

Respectfully,

**AUSTIN & ROGERS, P.A.**



Richard L. Whitt,  
Jefferson D. Griffith, III,  
Attorneys for Appellant.

Enclosures

cc: J. Emory Smith, Jr., Esquire, via U.S. Mail  
Mary D. Shahid, Esquire, via U.S. Mail

**ORIGINAL**