

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

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

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

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.

**APPELLANT'S DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL CONCURRENT WITH  
APPELLANT'S INITIAL REPLY BRIEF TO THE RESPONDENT, MERRY  
LAND PROPERTIES, LLC'S INITIAL BRIEF**

ORIGINAL

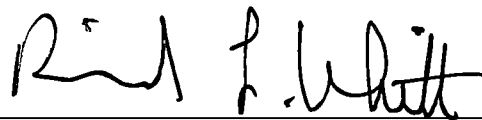
Appellant proposes the following is to be included in the Record on Appeal:

1. Gardner Transcript Pages , “20”, “21”, “23”, “27”, “30”, “31”, “32”, “37”, “38”, “43”.
2. Trial Transcript Pages, “3”, “26”, “73” “74”, “76”, “82”, “87”, “88”, “89”, “136”, “137”, “170”, “171”, “176”, “177”, “178”, “179”, “219”, “221”, “222”, “226”, “227”, “229”, “259”, “260”, “264”, “265”, “268”, and “269”.
3. Trial Exhibits “2”, “2A”, “3”, and “5”.
4. E-mail from Hon. Marvin H. Dukes, III dated March 1, 2016.
5. E-Mail from Appellant’s counsel, dated March 1, 2016.
6. E-Mail from Appellant’s counsel, dated March 28, 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:



Richard L. Whitt, S.C. Bar #: 62895,

Jefferson D. Griffith, III,

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**Attorneys for Appellant.**

February 23, 2017

Columbia, South Carolina

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Janet E. Walsh.....Respondents.

**PROOF OF SERVICE**

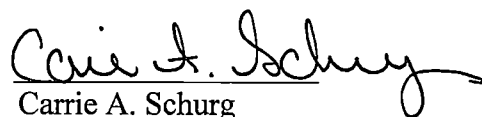
I, Carrie A. Schurg, an employee of Austin & Rogers, P.A., certify that I have  
caused the following to be served via U.S. Mail as addressed below on February 23, 2017.

ORIGINAL

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

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Carrie A. Schurg

February 23, 2017  
Columbia, South Carolina

# Austin & Rogers, P.A.

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\* ALSO ADMITTED IN N.C.

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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 Merry Land Properties, LLC'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, Merry Land Properties, LLC;
2. Appellant's Designation of Matter to be Included in Record on Appeal Concurrent with Appellant's Initial Reply Brief to the Respondent, Merry Land Properties, LLC'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