

IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM THE BEAUFORT COUNTY  
COURT OF COMMON PLEAS

STEPHEN A. SPITZ, SPECIAL REFEREE

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APPELLATE CASE NO.: 2016-001878  
CASE NO.: 2015-CP-07-1931

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MAR 22 2017

**SC Court of Appeals**

JULIA TOMPKINS EWING,

Respondent,

vs.

KEITH A. GUEST and STEPHANIE C. GUEST and  
PLEASANT POINT PROPERTY OWNERS ASSOCIATION, INC.,

Defendants

OF WHOM

KEITH A. GUEST and STEPHANIE C. GUEST are

Appellants.

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APPELLANTS' RETURN TO RESPONDENT'S  
MOTION TO STRIKE

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The Appellants, Keith A. Guest and Stephanie C. Guest, hereby file their Return to the Motion to Strike of the Respondent Julia Tompkins Ewing dated February 8, 2017.

The Respondent has moved for an Order striking from the Appellants' Designation of Matter and from the Appellants' Initial Brief material contained in those documents which the Respondent contends is in violation of the Rules of this Court, and requiring the Appellants to amend their Designation and their Initial Brief so as to comply with the Rules. The Appellants hereby file their Return to the Motion to Strike.

Upon reviewing the Motion to Strike and the Transcript of Record, the Appellants agree that some of the matters contained in their Designation of Matter and referenced in their Initial Brief are documents which are not part of the record in this case. The Appellants counsel recalls that the parties had stipulated during the trial to the admission of all documents contained within the chain of title of Appellants' property but, upon reviewing the Transcript and the Exhibits introduced at trial, it appears that some of the documents were not included and are, accordingly, not part of the record.

In her Motion to Strike, the Respondent references three (3) Exhibits, to-wit: Exhibit A which references the Designation of Matter, Exhibit B which references the Appellants' Initial Brief, and Exhibit C which also references the Appellants' Initial Brief.

With respect to Exhibit A, the Appellants agree that the Designation of Matter should be amended, so as to omit the items mentioned in the four (4) enumerated subsections.

With respect to Exhibits B and C to the Motion to Strike, the Appellants agree that their Initial Brief should be amended so as to omit reference to the items which will no longer be included in the Designation of Matter, and accordingly, will not be part of the record on this appeal. The Appellants agree that each of the portions of the Appellants' Initial Brief listed in Exhibits B and C will need to be re-written so as to eliminate reference to the omitted items.

In short, the Appellants agree that the Respondent's Motion to Strike is well-founded and that, as the Motion requests, the Appellants should be required to amend their Designation and Initial Brief so as to eliminate reference to the above items which were erroneously included in the Designation of Matter. Appellants' counsel accordingly respectfully requests a reasonable period of time in order to amend the Designation of Matter and the Appellants' Initial Brief, and would respectfully request sufficient time so that the Initial Brief can be forwarded to Respondent's

counsel in advance of filing so that any future issues can, hopefully, be worked out directly between counsel without Court involvement.

Finally, Appellants counsel apologizes to both the Court and Respondent's counsel but Appellants' counsel recalled that all documents in the chain of title had been included in the record, but upon closer review of the record after receiving the Motion to Strike, it is apparent that some documents were omitted.

Respectfully submitted,

MOSS, KUHN & FLEMING, P.A.

By: H. Fred Kuhn, Jr.

H. Fred Kuhn, Jr.  
1501 North Street  
Post Office Drawer 507  
Beaufort, South Carolina 29901  
(843)524-3373  
(843)524-1302 - facsimile

Beaufort, South Carolina  
March 20, 2017

Attorneys for Appellants

CERTIFICATE OF SERVICE

Undersigned certifies that the Return to Motion to Strike, to which this certificate is affixed, was served upon the party (s) to this action by hand delivery or by depositing a copy of same, enclosed in a first class, postpaid wrapper properly addressed to the attorney(s) of record:

Christopher Inglese, Esquire  
David Tedder, Esquire  
604-A Bladen Street  
Beaufort, South Carolina 29902

James B. Richardson, Jr., Esquire  
1229 Lincoln Street  
Columbia, South Carolina 29201


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**SC Court of Appeals**

in a post office or official depository under the exclusive care and custody of the United States Postal Service, on March 20, 2017.

MOSS, KUHN & FLEMING, P.A.

By:   
Sue Radford

LAW OFFICES

MOSS, KUHN & FLEMING P.A.

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\*ALSO MEMBER OF GA BAR

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SC Court of Appeals

Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: Julia Tompkins Ewing v. Keith A. Guest and Stephanie C. Guest and Pleasant  
Point Property Owners Association, Inc.  
Appellate Case No.: 2016-001878

Dear Mrs. Kitchings:

Enclosed please the original and seven (7) copies of the Appellants' Return to the Respondent's Motion to Strike. I would appreciate your returning one (1) filed copy to me in the enclosed self-addressed stamped envelope. By copy of this letter I am serving a copy of this motion on all counsel of record.

With kindest regards, I am

Very truly yours,

MOSS, KUHN & FLEMING, P.A.



H. Fred Kuhn, Jr.

HFKjr:sr

Enclosures

cc: David L. Tedder, Esquire (w/enclosure)  
Christopher Santino Inglese, Esquire (w/enclosure)  
James B. Richardson, Jr., Esquire (w/enclosure)

MOSS, KUHN, FLEMING & SMITH, P.A.

1501 North Street

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