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May 3, 2017

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SC Court of Appeals

VIA U.S. MAIL

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

RE: Charleston Electrical Services, Inc. v. Rahall
Appellate Case No. 2016-001842

Dear Ms. Kitchings:

This firm represents Respondent Wanda G. Rahall (hereinafter referred to as “Respondent”) in the above-referenced appeal. Pursuant to Rule 208(b)(7), South Carolina Appellate Court Rules, we request the Court direct its attention to the recent decision of the South Carolina Supreme Court in *Smith v. Tiffany, et. al*, Opinion No. 27715, filed April 26, 2017.

Respondent submits this decision because it addresses the underlying issue that is the crux of this case – whether a defendant has an independent cause of action for contribution against a party who was not sued by the plaintiff in the underlying action. In footnote 3 of the *Smith* opinion, the South Carolina Supreme Court states the following:

“Although the trial court did not specifically rule upon Appellants' claim that a standalone cause of action for apportionment exists under section 15-38-15(C), based on the considerable litigation surrounding that issue in state and federal courts throughout South Carolina, we take this opportunity, in the interest of judicial economy and for the benefit of the bench and bar, to reject the argument that section 15-38-15(C) creates a standalone cause of action for apportionment of fault to a non-party....” (emphasis added)

Appellants' entire case is premised on the notion that Section 15-38-15(C) affords Appellants a separate cause of action to seek contribution from Respondent, and they freely admit that the Respondent was not a defendant in the underlying action. (Tr. Transcript, p. 50:18-24). Accordingly, while Respondent continues to maintain her position that the trial court correctly held that Respondent shared no “common liability” for the underlying tort, Appellants entire case is now moot as Appellants have no justiciable cause of action for contribution against Respondent in light of the South Carolina Supreme Court's decision in *Smith*.

Respondent is available and willing to provide further briefing on this issue if it would be of assistance to the Court. Thank you for your attention to this matter.

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With warmest personal regards, I am

Yours very truly,

A handwritten signature in black ink, appearing to read "Elizabeth F. Fulton". The signature is written in a cursive, flowing style with a large initial "E".

Elizabeth F. Fulton

cc: Edward K. Pritchard, III, Esquire
Andrew F. Lindemann, Esquire

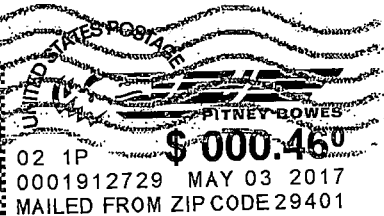
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