

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

William P. Keesley, Circuit Court Judge

**RECEIVED**

MAY 24 2017

**SC Court of Appeals**

Appellate Case No. 2016-002487

Cassandra M. Myers and Bartholomew Myers in their capacity as Co-Personal  
Representatives of the Estate of Evan Morris Myers, Appellants,

v.

The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a  
Pine Island Club at Lake Murray; South Carolina Electric and Gas Holding  
Company, Inc.; SCANA, Respondents.

**APPELLANTS' RETURN TO  
RESPONDENT'S MOTION TO DISMISS**

TO: THE HONORABLE JUDGES OF THE COURT OF APPEALS OF SOUTH CAROLINA:

In response to the Court's granting Respondents' first Motion to Strike, (Ex. A), Appellants filed an Amended Designation of Matter to be Included in the Record on Appeal. (Ex. B). Respondents filed a second motion to strike designations that this Court received on May 11, 2017. Appellants address the contentions raised in Respondents most recent motion related to initial designations as follows.

The Court's order required Appellants serve and file an amended designation of matter that included only documents which "were presented to the circuit court." The Court's language substantially mirrors the language set forth in Rule 210(c), SCACR. In good faith, Appellants believe that is exactly what Appellants did in their amended designation. Now, Respondents

simultaneously argue Appellants violated the Court's order by including *any* designations from Answers to Interrogatories, while also *conceding* that certain answers to interrogatories were presented to the circuit court. (Ex. C, FN 3, p. 7). Therefore, despite Respondents' arguments to the contrary, it is clearly not that case that *no* answers to interrogatories were presented to the circuit court.

More importantly, the Initial Brief includes only references to interrogatory answers that were previously stated in Plaintiffs' Memorandum of Law in Response to Defendants' Motion for Summary Judgment. (Ex. D, p. 3 and 4, Ex. E, p. 1, 2, and 9). Because the Initial Brief includes only the exact same references to Defendants' Answers to Interrogatories that were previously provided in Plaintiff's Response, it is hard to understand how Respondents can argue this constitutes new materials which were not presented to the circuit court for review.

Finally, the trial Court incorporated the very same information provided by these answers in the Order from which this appeal is taken. The citations show a source of the evidence that the Defendant Club was membership-only, the requirements to be a member, and that non-member access was prohibited. (Ex. F). This exact same information is reflected in the trial Court's order. In determining the decedent was an invitee, the trial Court stated, "[Decedent's] presence at the club and his access to the lake through it required that he be the guest of someone who held membership status by virtue of relationship to Defendants and payment of dues. The club is not open to the public." (Ex. G, p. 9). Therefore, not only was this information properly presented to the trial court, the trial court relied upon it in its Order and is appropriately included in the amended designation.

Secondly, Respondents contend Appellants included citations to Mandy Bellamy's deposition that were not presented to the circuit court. This is false. The *entire deposition transcript*

was presented to the circuit court for consideration. At the hearing, Appellants' counsel presented to the circuit court a binder that contained several documents, including the entire transcript of Mandy Bellamy's deposition. The hearing transcript reads, "Your Honor, the defendants have submitted a few pages of Ms. Bellamy's deposition. In your binder, you have the complete deposition." (Ex. H, p. 27:16-18). Because the entire deposition was presented to the trial Court, Appellants are having difficulty understanding how portions could have been cited to that were not presented to the circuit court. The circuit court never stated at the hearing or in the Order that the deposition transcript was never presented to the court, that it was improperly presented, or that the circuit court, for whatever reason, would not consider it. Therefore, this information was properly presented to the trial court and is appropriately included in the amended designation.

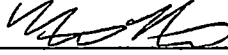
Thirdly, Respondents take issue with the fact that Appellants added Bylaws to the amended designation despite acknowledging that they were cited to in the Initial Brief. Number 11 of the Initial Designation stated that the designation included, "any other document cited in Appellants' Initial Briefs." (Ex. I). In light of this Court's Order, Appellants took the opportunity to explicitly list the Bylaw citations that were included in the Initial Brief in the amended designation. Appellants are unclear what Respondents' concern is regarding the specific naming of certain documents in the Amended Initial Designation that were already included in the Initial Brief. Respondents do not contend that these materials were not presented to the trial court. Therefore, because there does not appear to be any genuine objection to the inclusion of the Bylaws, other than the fact that Appellants explicitly listed them in the Amended Designation, the bylaws are appropriately included in the amended designation.

### CONCLUSION

Respondents are clearly taking every effort possible to delay this Court from reviewing the issues on their merits. Respondents personally attack Appellants' counsel for having a "perceived lack of familiarity" with the appellate court rules. However, the motion that lodges this attack is meritless. Respondents cry foul for Appellants designating any answers to interrogatories, despite Respondents' explicitly conceding there are Answers that are part of the record, and ignore the fact that Respondents cited to the exact same interrogatories in their response to Defendants' motion for summary judgment. Moreover, they conveniently overlook the fact that the trial judge incorporated the information found in those interrogatories into its Order. Respondents challenge certain designations to Mandy's deposition even though the entire deposition was presented to the trial court. Respondents have obviously not suffered "grave prejudice." Moreover, if costs associated with Respondents' filing of this motion were unnecessarily incurred, it is because Respondents should have never filed the motion in the first place. For the foregoing reasons, Appellants' respectfully request this Court deny Respondents' Motion.

Respectfully submitted,

**GRAHAM LAW FIRM, P.A.**  
**KROMPECHER LAW FIRM, PLLC**

  
Edward L. Graham (SC Bar: 2483)  
J. Layton Ruffin (SC Bar: 78267)  
Pedro E. Krompecher, III (SC Bar: 100485)  
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Florence, SC 29501  
t. (843) 662-3281  
f. (800) 859-7028  
*Attorneys for Appellants*

May 22, 2017

# Exhibit A

# The South Carolina Court of Appeals

Cassandra M. Myers, and Bartholomew Myers in their capacity as Co-Personal Representatives of the Estate of Evan Morris Myers, Appellants,

v.

The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a Pine Island Club at Lake Murray, South Carolina Electric and Gas Holding Company, Inc; SCANA, Respondents.

Appellate Case No. 2016-002487

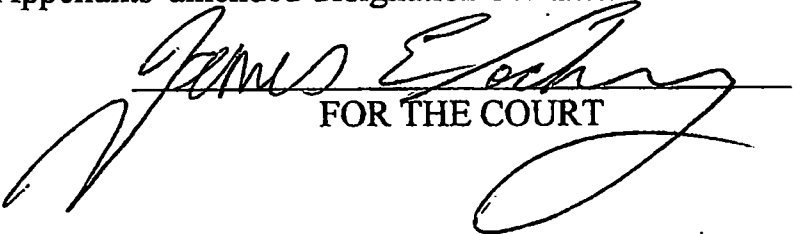
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## ORDER

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Respondents' motion to strike Appellants' designation of matter is granted. Within twenty days of this order, Appellants shall serve and file an amended designation of matter that includes only those documents that were presented to the circuit court. The following designations shall not be included in the amended designation of matter: (1) answers to interrogatories and requests for production; (2) emails between counsel that were not part of the circuit court's record; and (3) portions of the deposition transcript of Mandy Bellamy that were not part of the circuit court's record. Further, the amended designation of matter must specifically reference each document Appellant desires to be included in the record on appeal at this time. Nothing, however, prevents Appellants from moving to supplement their designation of matter after Respondents file their initial brief.

Respondents shall serve and file their initial brief and designation of matter within thirty days of service of Appellants' amended designation of matter.

  
FOR THE COURT

Columbia, South Carolina

cc:

Pedro Eduardo Krompecher, Esquire

Christian Stegmaier, Esquire

Meghan Hazelwood Hall, Esquire

John Layton Ruffin, Esquire

Edward L. Graham, Esquire

**FILED**

April 6, 2017

# Exhibit B

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

William P. Keesley, Circuit Court Judge

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Appellate Case No. 2016-002487

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**RECEIVED**

APR 27 2017

SC Court of Appeals

Cassandra M. Myers and Bartholomew Myers in their capacity as Co-Personal  
Representatives of the Estate of E. M. Myers,

Appellants,

The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a  
Pine Island Club at Lake Murray; South Carolina Electric and Gas Holding  
Company, Inc.; SCANA; and Mandy Nicole Bellamy,

Respondents.

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**AMENDED DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL**

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Appellants propose the following to be included in the Record on Appeal:

- 1) The following pleadings:

Amended Complaint  
Answers to Plaintiffs' Interrogatories to Defendants  
Answers to Plaintiffs' Second Interrogatories to Defendants;

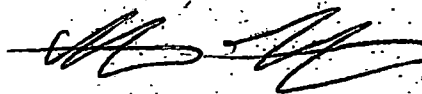
- 2) The following portions of the Deposition transcript and exhibits of Mandy Bellamy:

Bellamy Depo. 44:9-16  
Bellamy Depo. 48:17-19  
Bellamy Depo. 53:10-15  
Bellamy Depo. 56:11 to 57:8  
Bellamy Depo. 69:24-25, 71:22 to 72:2  
Bellamy Depo. 74:7-10  
Bellamy Depo 81:1-9  
Bellamy Depo. 92:13-19, 93:7-13  
Bellamy Depo. 96:25 to 97:24  
Bellamy Depo 149:15-150:1;

- 3) Affidavits and Supplemental Affidavits of Drs. Francesco Pia and Ralph Johnson;
- 4) E-mail correspondence between the Honorable William P. Keesley and Counsel for both the Plaintiff and the Defendant;
- 5) The following Orders:
  - Order (August 24, 2016)
  - Order denying motion to alter or amend (November 15, 2016)
  - Order Granting Summary Judgment
  - Reply to Defendants' Response (October 10, 2016)
  - Response to Defendant's Motion for Summary Judgment (December 8, 2015);
- 6) The following Motions, and responses to motions:
  - Defendant's Motion for Summary Judgment (November 3, 2014)
  - Memo in Opposition to Motion to Alter or Amend (September 27, 2016)
  - Motion to Alter or Amend and Supp. Affs. of Drs. Pia and Johnson;
- 7) Transcription of the Hearing held on December 11, 2015 before the Honorable William P. Keesley;
- 8) Appellants Notice of Appeal and Amended Notice of Appeal;
- 9) The following documents cited in Appellants' Initial Briefs:
  - Consolidated Employee Recreation Clubs Bylaws Art. V.
  - Pine Island Chapter Bylaws Art. V
  - Statement of Evan McPherson
  - Statement of J.W. Seay

I certify that this designation contains no matter which is irrelevant to this appeal.

**GRAHAM LAW FIRM, P.A.**  
**KROMPECHER LAW FIRM, PLLC**



Edward L. Graham (SC Bar: 2483)  
J. Layton Ruffin (SC Bar: 78267)  
Pedro E. Krompecher, III (SC Bar: 100485)  
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f. (800) 859-7028  
*Attorneys for Appellants*

**Other Counsel of Record:**  
Christian Stegmaier  
Megan H. Hall  
**Collins & Lacy, P.C.**  
1330 Lady Street  
Sixth Floor  
Columbia, SC 29201  
*Attorneys for Respondents*

April 26, 2017

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

William P. Keesley, Circuit Court Judge

---

Appellate Case No. 2016-002487

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SC Court of Appeals

Cassandra M. Myers and Bartholomew Myers in their capacity as Co-Personal  
Representatives of the Estate of E. M. Myers,

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The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a  
Pine Island Club at Lake Murray; South Carolina Electric and Gas Holding  
Company, Inc.; SCANA; and Mandy Nicole Bellamy,

Respondents.

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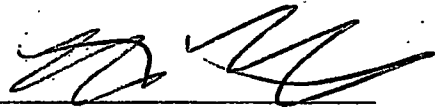
**PROOF OF SERVICE**

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I hereby certify that one copy of the *Amended Designation of Matter to be Included in the Record* in the above-referenced matter was served by U.S. Mail, postage prepaid, on April 26, 2017 addressed to the following counsel of record:

Christian Stegmaier  
Megan H. Hall  
**Collins & Lacy, P.C.**  
1330 Lady Street  
Sixth Floor  
Columbia, SC 29201

**GRAHAM LAW FIRM, P.A.**  
**KROMPECHER LAW FIRM, PLLC**



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f. (800) 859-7028  
*Attorneys for Appellant*



# GRAHAM LAW

*Shining a Light on Safety, Guiding the Way to Justice.*

Edward L. Graham  
Diane M. Rodriguez  
J. Layton Ruffin

April 26, 2017

Megan H. Hall  
Collins & Lacy, P.C.  
1330 Lady Street  
Sixth Floor  
Columbia, SC 29201

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APR 27 2017

SC Court of Appeals

Re: Cassandra M. Myers and Bartholomew Myers in their capacity as Co-Personal Representatives of the Estate of Evan Morris Myers, Appellants, v. The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a Pine Island Club at Lake Murray; South Carolina Electric and Gas Holding Company, Inc.; SCANA, Respondents.  
Appellate Case No. 2016-002487

Dear Ms. Hall:

Enclosed is the Appellants' Amended Designation of Matter to be Included in the Record on Appeal in the above case, which I hereby serve upon you.

Very truly yours,

J. Layton Ruffin  
Pedro Krompecher  
PK/jd  
Enclosures

cc: The Honorable Jenny Abbott Kitchings

GRAHAM LAW FIRM, P.A.

383 West Cheves Street, Florence. SC 29501

MAIN OFFICE

P.O. Box 550, Florence, SC 29503

Phone 843.662.3281

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Phone 803.774.4444

EFax 1.800.859.7028



# GRAHAM LAW

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Edward L. Graham  
Diane M. Rodriguez  
J. Layton Ruffin

April 26, 2017

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APR 27 2017

SC Court of Appeals

Re: Cassandra M. Myers and Bartholomew Myers in their capacity as Co-Personal Representatives of the Estate of Evan Morris Myers, Appellants, v. The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a Pine Island Club at Lake Murray; South Carolina Electric and Gas Holding Company, Inc.; SCANA, Respondents.  
Appellate Case No. 2016-002487

Dear Mr. Stegmaier:

Enclosed is the Appellants' Amended Designation of Matter to be Included in the Record on Appeal in the above case, which I hereby serve upon you.

Very truly yours,

J. Layton Ruffin  
Pedro Krompecher  
PK/jd  
Enclosures

cc: The Honorable Jenny Abbott Kitchings

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# GRAHAM LAW

*Shining a Light on Safety. Guiding the Way to Justice.*

Edward L. Graham  
Diane M. Rodriguez  
J. Layton Ruffin

April 26, 2017

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

**RECEIVED**

APR 27 2017

SC Court of Appeals

Re: Cassandra M. Myers and Bartholomew Myers in their capacity as Co-Personal Representatives of the Estate of Evan Morris Myers, Appellants, v. The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a Pine Island Club at Lake Murray; South Carolina Electric and Gas Holding Company, Inc.; SCANA, Respondents.  
Appellate Case No. 2016-002487

Dear Ms. Kitchings:

Enclosed for filing is the Appellants' Amended Designation of Matter to be Included in the Record on Appeal in the above case. By copy of this letter, I am serving attorneys for Respondents with a copy of the same. Please return a clocked copy to me using the enclosed self-addressed, stamped envelope.

Thank you for your attention to this matter.

Very truly yours,

J. Layton Ruffin  
Pedro Krompecher  
PK/jd  
Enclosures  
cc: Christian Stegmaier  
Megan H. Hall

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# GRAHAM LAW

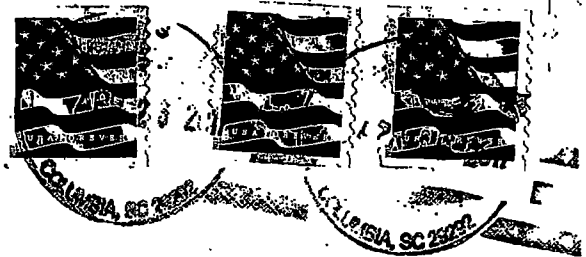
GRAHAM LAW FIRM, P.A.  
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P.O. Box 550 (29503)  
Florence, SC 29501

**RECEIVED**

APR 27 2017

SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201



# Exhibit C

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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

William P. Keesley, Circuit Court Judge

RECEIVED

Appellate Case No. 2016-002487

MAY 11 2017

SC Court of Appeals

Cassandra M. Myers and Bartholomew Myers  
in their capacity as Co-Personal Representatives  
of the Estate of Evan Morris Myers, ..... Appellants,

v.

The Consolidated Employee Recreation Clubs, a  
non-profit organization a/k/a Pine Island Club  
at Lake Murray, South Carolina Electric and Gas  
Holding Company, Inc.; SCANA ..... Respondents.

**MOTION TO DISMISS APPEAL OR, IN THE ALTERNATIVE,  
MOTION TO STRIKE**

TO: THE HONORABLE JUDGES OF THE COURT OF APPEALS OF SOUTH  
CAROLINA:

Pursuant to Rule 231, SCACR, Respondents The Consolidated  
Employee Recreation Clubs, a non-profit organization a/k/a Pine Island Club  
at Lake Murray, South Carolina Electric and Gas Holding Company, Inc.,

Consolidated Employee Recreations Clubs Bylaws Art. V.

Despite the Court's Order directing Appellants to not include Answers to Plaintiffs' Interrogatories in their Amended Designation of Matter, Appellants continue to include the same.<sup>3</sup> Furthermore, Appellants have cited and made reference to Answers to Plaintiff's Interrogatories, Interrogatory Nos. 1-3, and Answers to Plaintiffs' Second Interrogatories, Interrogatory Nos. 2, 27, and 29. In addition to continuing to include Answers to Interrogatories in their Amended Designation of Matter to the Court despite this Court's Order, Appellants have included matters in their Initial Brief which were not part of the circuit court record. The inclusion of Answers to Interrogatories in the Designation of Matter and in Appellants' Initial Brief is in direct contravention to the appellate court rules and this Court's Order.

Further, despite the Court's Order directing Appellants to not include portions of the deposition transcript of Mandy Bellamy that were not part of

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<sup>3</sup> Respondents concede that Appellants submitted Respondents response to Interrogatory No. 21 as an exhibit in an email response to an inquiry made by the Circuit Court. However, this, along with Interrogatory Nos. 17-20—which were on the same page as Interrogatory No. 21—are the only Interrogatory responses that were submitted to the circuit court and are part of the circuit court record.

# Exhibit D

 **COPY**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

JAN 20 2017

**SC Court of Appeals**

William P. Keesley, Circuit Court Judge

Appellate Case No. 2016-002487

Cassandra M. Myers and Bartholomew Myers in their capacity as Co-Personal  
Representatives of the Estate of Evan Morris Myers,

Appellants,

v.

The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a  
Pine Island Club at Lake Murray; South Carolina Electric and Gas Holding  
Company, Inc.; SCANA,

Respondents.

**INITIAL BRIEF OF APPELLANTS**

**GRAHAM LAW FIRM, P.A.  
KROMPECHER LAW FIRM, PLLC**



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t. (843) 662-3281  
f. (800) 859-7028  
*Attorneys for Appellants*

January 19, 2017

An Order granting Defendants' Motion for Summary Judgment was filed on August 8, 2016. (Order). Summary judgment was granted on the basis of failure to establish proximate causation as a matter of law and no duty owed to decedent. The Form 4 accompanying the signed order indicates the judgment was entered on August 24, 2016. A copy of the signed Order was received on August 30, 2016. On September 6, 2016, Plaintiffs filed a Motion to Alter or Amend Pursuant to Rule 59(e), SCRCP and expert affidavits addressing the late causation argument. (Motion to Alter or Amend and Supp. Affs. of Drs. Pia and Johnson). Defendants filed a Memorandum in Opposition to Plaintiffs' Motion to Alter or Amend on September 27, 2016. (Memo in Opp. to Mot. to Alter or Amend.). Plaintiffs filed a Reply to Defendants' Response on October 10, 2016. (Reply). The trial court entered an Order denying Plaintiffs' motion to alter or amend dated November 4, 2016 and clocked as filed on November 9, 2016. The Form 4 indicated the judgment was entered on November 15, 2016. (Order denying motion to alter or amend).

Appellants served a notice of appeal upon Defendants on December 12, 2016, and the notice was filed on the same date. An amended Notice of Appeal was served on December 27, 2016 and received December 28, 2016. The amount involved on appeal is indeterminable at this time, but would include all damages associated with the wrongful death of a twenty-one-year-old.

#### **STATEMENT OF THE FACTS**

On June 15, 2011, Evan Myers and Mandy Bellamy arrived at the Pine Island Club on Lake Murray. Mandy Bellamy was a member of the Pine Island Club and Evan accompanied Mandy as her guest. The Pine Island Club is owned and operated by Consolidated Employee Recreation Clubs. Pine Island Club is a membership-only recreational facility available solely to employees of Defendant SCANA. (Def. Ans. To Interrog. ¶¶ 1-3). To be a member of the Pine Island Club and have access to the facilities, including the swimming beaches, a person must be: (1) an

employee of SCANA, (2) have applied for and been accepted for membership, (3) have paid an initiation fee, and (4) pay monthly membership fees.

Pine Island Club is analogous to a private country club. Guards at the entrance prevent entry of non-members onto the island. Members are checked upon entrance. Members are permitted to bring guests onto the island. However, if a non-member accesses the Pine Island Club without a member, that person is a trespasser and subject to prosecution. (Defs. Ans. to Interrog. ¶ 3, Defs. Ans. to 2d Set of Interrog, ¶¶ 2, 27, 29, Pine Island Chapter Bylaws Art. V; Consolidated Employee Recreation Clubs Bylaws Art. V.).

Facilities like the Pine Island Club that hold themselves out as providing swimming areas and lifeguards to club members have certain duties and obligations to those who lawfully use its facilities. National water safety organizations put out industry safety and standards and practices including those set forth by the National Oceanic and Atmospheric Administration, the National Lightning Safety Institute, the National Weather Service, the American Red Cross, the National Water Safety Congress, and the YMCA to name a few. (Affs. of Drs. Pia and Johnson). The duties owed by a landowner like Pine Island Club to its members include duties to have: (1) weather monitoring equipment, (2) a severe weather safety plan, (3) an Operations Policies and Procedures Manual for life guards, (4) to clear the beach and pool in anticipation of an incoming storm, (5) to warn all swimmers of potentially unsafe water conditions, (6) to have safety posts near the swimming waters that included throwing components, (7) to have water rescue devices on and around the boating dock, and (8) to have a life guard on duty at the swimming pool and beach. (Aff. of Drs. Pia and Johnson).

Evan was the invited guest of Mandy Bellamy, a member of Pine Island Club, when he was granted access to the island club on June 15, 2011. Evan had attended the club previously as

# Exhibit E

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
 COUNTY OF LEXINGTON ) CIVIL ACTION NO. 2014-CP-32-02210  
 2015 DEC -8 PM 4:10

Cassandra M. Myers and Bartholomew  
 Myers in their capacity as Co-Personal  
 Representatives of the Estate of  
 Evan M. Myers,

BETH A. CARRIGG  
 CLERK OF COURT  
 LEXINGTON, SC

Plaintiffs,

v.

The Consolidated Employee Recreation  
 Clubs, a non-profit organization a/k/a Pine  
 Island Club at Lake Murray; South  
 Carolina Electric and Gas Holding  
 Company, Inc.; SCANA,

Defendants.

**PLAINTIFFS' MEMORANDUM OF LAW IN  
 RESPONSE TO DEFENDANTS' MOTION  
 FOR SUMMARY JUDGMENT**

NOW COME the Plaintiffs, by and through the undersigned counsel, and respectfully submit this Memorandum of Law in Response to Defendants' Motion for Summary Judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure.

**FACTS**

The instant action arises out of the drowning death of Evan Myers. Evan drowned on the evening of June 15, 2011, while swimming at the swimming beach of Pine Island Club. Lake Murray is owned by Defendant South Carolina Electric and Gas Holding Company. The Pine Island Club is owned and operated by Defendant Consolidated Employee Recreation Clubs. Pine Island Club a membership-only recreational facility available solely to employees of Defendant SCANA. (See Def. Ans. to Interrogatories ¶¶ 1-3.) In order to be a Member of the Pine Island Club and have access to the facilities, including the subject swimming beach, a person must be

(1) an employee of SCANA, (2) have applied and been accepted for membership, (3) have paid an initiation fee, and (4) pay monthly Membership Fees.

Pine Island Club is analogous to a private country club. There are guards at the entrance and Members are checked upon entrance. Members may bring guests onto the island. If a non-member accesses the Pine Island Club without a member, that person is a trespasser and subject to prosecution. (*See* Defs.' Ans. to Interrogatories, ¶ 3, Feb. 23, 2015. *See also* Defs.' Ans. to Pls. 2d Set of Interrogatories, ¶¶ 2, 27, 28, April 14, 2015. *See also* Pine Island Chapter Bylaws Art. V; Consolidated Employee Recreation Clubs Bylaws Art. V.)

On the evening of June 15, 2011. Evan was the invited guest of Mandy Bellamy, a member of Pine Island Club. Evan had been an invited guest of Ms. Bellamy the week before. They swam together, along with Ms. Bellam's boyfriend, for over an hour, without incident.

On the evening of June 15, 2011, Evan and Ms. Bellamy swam together at the swimming beach in approximately 12 feet of water for over 30 minutes. Evan and Ms. Bellamy were the only people at the swimming beach and Ms. Bellamy's car was the only car in the parking lot. Their bags and towels were on the beach.

During the time Evan and Ms. Bellamy were swimming at the swimming beach, the Pine Island Club received information of an incoming storm and closed down the swimming pool, adjacent to the swimming beach. All lifeguards and swimmers were sent home.

After the swimming pool was closed due to the incoming storm, Evan and Ms. Bellamy, without knowledge of the incoming storm, walked passed the Pine Island Club caretaker, Mr. Seay, dripping wet in their bathing suits, and jumped off the boating dock less than 50 feet away.

Defs.' Ans. to Interrogatories, ¶ 3 (emphasis added). Additionally, membership to the Pine Island Club is voluntary to SCANA employees. *See* Defs.' Answers to Pls. 2d Set of Interrogatories, ¶¶ 2, 27, 28.

Those who choose to be members must pay an initiation fee, as well as month chapter dues which may be deducted from pay roll. *See* Pine Island Chapter Bylaws Art. V. *See also* Consolidated Employee Recreation Clubs Bylaws Art. V.

Additionally, the Recreational Use Statute "limits the liability of landowners who open their land to any persons having 'sought and obtained' permission to enter for recreational purposes." *Harris*, 391 S.C. at 526, 706 S.E. 2d at 49 (emphasis original). While permission may be implied, it must be when the public is invited onto the premises free of charge; in those instances, permission is clearly implied. *See Brooks v. Northwood Little League*, 327 S.C. 400, 408, 489 S.E. 2d 647, 651 (1997) (personal injuries at a Little League T-ball game at Northwood Middle School).

However, in *Harris*, not every entrant onto the property was required to pay the fee to gain admission; "volunteers, family members of employees, and honored visitors" were not charged. *Harris*, 391 S.C. at 521, 706 S.E. 2d at 47. Plaintiff, the mother of an intern at the facility, was injured on boardwalk stairs when returning from the beach. In the lawsuit resulting from her personal injuries, the court held that "whether Harris sought permission to enter the Island and whether her visit was for recreational purposes are questions of fact for the jury to decide." *Harris*, 391 S.C. at 526, 706 S.E. 2d at 49.

In the case at bar, the facts are more akin to *Harris* than *Brooks*. No one is permitted on the island without a member. In this case, Mandy Bellamy's father was a member of Pine Island Club. In her experience, seventy-five percent (75%) of the time, there are people checking

# Exhibit F

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON ) IN THE COURT OF COMMON PLEAS  
 )  
 ) FOR THE ELEVENTH JUDICIAL CIRCUIT

Cassandra M. Myers and Bartholomew )  
Myers in their capacity as Co-Personal )  
Representatives of the Estate of Evan )  
Morris Myers, )  
 )  
 ) Civil Action No.: 2014-CP-32-02210

Plaintiffs, )

vs. )

The Consolidated Employee Recreation )  
Clubs, a non-profit organization a/k/a Pine )  
Island Club at Lake Murray, South Carolina )  
Electric and Gas Holding Company, )  
Inc./SCANA, Mandy Nicole Bellamy, )  
Matthew Bellamy, Lexington County )  
Coroner's Office, Lexington County )  
Sheriff's Department, and Lexington )  
County Medical Center Auxiliary. )

Defendants. )

**DEFENDANTS**  
**MANDY NICOLE BELLAMY AND**  
**MATTHEW BELLAMY'S**  
**ANSWERS TO INTERROGATORIES**

---

TO: PEDRO E. KROMPECHER, III, ESQUIRE, COUNSEL FOR PLAINTIFFS;

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, Defendants Mandy Nicole Bellamy and Matthew Bellamy (hereafter "Bellamy Defendants") answer to Plaintiff's First Set of Interrogatories as follows:

**GENERAL OBJECTIONS**

1. Defendants object to each interrogatory to the extent it seeks information that constitutes evidence or reflects confidential communications between Defendants and their attorneys.
2. Defendants to the extent it seeks information that constitutes evidence or reflects trial preparation materials or work product of the or their representatives, agents, or attorneys.

3. Defendants will remove those documents from files, records or other documents to be the products that come within the foregoing objections. If there are documents withheld based on the privilege, Defendants will provide Plaintiff with a separate list of those documents.
4. Defendants object to each interrogatory to the extent it seeks information already available to or equally available to Plaintiff.
5. The following interrogatory answers are based upon information presently available to Defendants and are made without prejudice to the rights of Defendants to utilize subsequently discovered information.
6. By making a response to any interrogatory or documents request, these Defendants do not intend or mean to waive the attorney-client privilege, the work-product doctrine or any other privilege, objection or other limitations upon discovery as to that interrogatory or as to any other present or future request for discovery.
7. Defendants object to each interrogatory in excess of 25, including subparts, as a violation of Rule 33.
8. All answers to the interrogatories and responses to the requests for production of documents are made without the waiver of these general objections, or the specific objections which are hereinafter set forth.
9. The foregoing objections are general ones applicable to all categories of information to be produced. The following responses to any particular item of information should be deemed to include these objections and categories.

**DEFENDANTS' ANSWERS TO PLAINTIFFS' INTERROGATORIES**

1. Detail your relationship with every other defendant as it existed on the date of the Incident.

**RESPONSE:** Bellamy Defendants object to this Interrogatory on the grounds that it is overly broad and unduly vague as to the term "relationship." Bellamy Defendants further object to this Interrogatory on the grounds that it seeks information unlikely to lead to any admissible evidence. Subject to and notwithstanding these objections, Defendant Mandy Bellamy is a witness to this incident and the daughter of Ralph Bellamy. Ralph Bellamy is an SCE&G employee and member of the Pine Island Club, and he and his daughter Defendant Mandy Bellamy possessed "membership privileges and/or permission and/or access to the premises" at Pine Island on June 15, 2011. Matthew Bellamy is Mandy Bellamy's brother and has no nexus to the subject incident.

2. On the date of the Incident, detail your relationship with the Pine Island Club.

**RESPONSE:** Bellamy Defendants object to this Interrogatory on the grounds that it is overly broad and unduly vague as to the term "relationship." Bellamy Defendants further object to this Interrogatory on the grounds that it seeks information unlikely to lead to any admissible evidence. Subject to and notwithstanding these objections, Bellamy Defendants were members of the Pine Island Club. Due to her being a child of a South Carolina Electric & Gas employee, Defendant Mandy Bellamy possessed "membership privileges and/or permission and/or access to the premises" at Pine Island on June 15, 2011. Ralph Bellamy, the father of Mandy Bellamy, is an employee of South Carolina Electric & Gas and possessed "membership privileges and/or permission and/or access to the premises" at Pine Island on June 15, 2011. Ralph Bellamy was not an agent or servant of SCANA Defendants as it pertains to the operation of Pine Island Club.

- 3 In regards to the Pine Island Club and its surrounding area, please describe in detail your relationship in terms of duties, responsibilities, security, ownership, management and financial obligations or otherwise.

**RESPONSE:** Bellamy Defendants object to this Interrogatory on the grounds that it is overly broad and unduly vague as to the term "relationship." Bellamy Defendants further object to this Interrogatory on the grounds that it seeks information unlikely to lead to any admissible evidence. Subject to and notwithstanding these objections, Bellamy Defendants were members of the Pine Island Club. Due to her being a child of a South Carolina Electric & Gas employee, Defendant Mandy Bellamy possessed "membership privileges and/or permission and/or access to the premises" at Pine Island on June 15, 2011. Ralph Bellamy, the father of Mandy Bellamy, is an employee of South Carolina Electric & Gas and possessed "membership privileges and/or permission and/or access to the premises" at Pine Island on June 15, 2011. Ralph Bellamy was not an agent or servant of Defendants as it pertains to the operation of Pine Island Club.

4. What was your relationship with Pine Island Club from January 1, 2006 to the date of the Incident? (Please detail all duties and responsibilities as well as all ownership interests and management and operational roles)

**RESPONSE:** Bellamy Defendants object to this Interrogatory on the grounds that it is overly broad and unduly vague as to the term "relationship." Bellamy Defendants further object to this Interrogatory on the grounds that it seeks information unlikely to lead to any admissible evidence. Subject to and notwithstanding these objections, Bellamy Defendants were members of the Pine Island Club. Ralph Bellamy has been an SCE&G employee for nearly 42 years, and a member of the Pine Island Club for some 35 years or more. Ralph Bellamy was not an agent or servant of SCANA Defendants as it pertains to the operation of Pine Island Club, and had no ownership, management, or operational roles within the Pine Island Club.

5. Please identify the names, addresses, and phone numbers of the persons who you believe to have the knowledge of your relationship with Pine Island Club during the 90 days before the Incident up to and including the date of the Incident.

**RESPONSE:** Bellamy Defendants object to this Interrogatory on the grounds that it is overly broad and unduly vague as to the term "relationship." Defendants further object to this Interrogatory on the grounds that it seeks information unlikely to lead to any admissible evidence. Subject to and notwithstanding these objections, Bellamy Defendants assert that they possessed "membership privileges and/or permission and/or access to the premises" at Pine Island during the 90 days before the incident. Vanessa Abercrombie, Assistant Secretary for Pine Island Club and Analyst at SCE&G, c/o Collins and Lacy, P.C., can confirm Bellamy Defendants' membership(s).

6. Please identify the names, addresses and phone numbers of the persons who you believe to have knowledge about the Incident.

**RESPONSE:** Bellamy Defendants object to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and vague as to the term "knowledge." Subject to and notwithstanding these objections, Bellamy Defendants assert that the following named persons would be witnesses to this incident.

**Mandy Bellamy  
Defendant  
c/o Collins & Lacy, P.C.  
PO Box 12487  
Columbia, SC 29211**

**Ralph Bellamy**  
**Defendant**  
**c/o Collins & Lacy, P.C.**  
**PO Box 12487**  
**Columbia, SC 29211**

**Clyde Evan McPherson**  
**301 Barmount**  
**Columbia, SC, 29210**  
**803-217-8322**  
**802-206-9448**

**Kim McPherson**  
**301 Barmount**  
**Columbia, SC, 29210**  
**(803) 238-4715**  
**(803) 924-2896**

**John W. ("JW") Seay**  
**c/o Collins & Lacy, P.C.**  
**PO Box 12487**  
**Columbia, SC 29211**

7. Identify all persons, including members of Pine Island Club, who based on their job duties and responsibilities with any entity, would have knowledge of any complaints, allegations, lawsuits or notices received Pine Island Club with the five (5) years before the date of the Incident up to an including the date of the Incident.

**RESPONSE: Upon information and belief, these Bellamy Defendants do not have knowledge of any persons, including members of Pine Island Club, who based on their job duties and responsibilities with any entity would have knowledge of any complaints/allegations/lawsuits/notices served upon Pine Island Club within the five years prior to this incident.**

8. If you are an entity, identify all officers of your entity, all members of your board of directors, and all of those individuals who during the month when the Incident took place had any role in safety, security or supervision of any part of Pine Island Club. For each

responsive individual, identify their (1) employer, (2) job title, and (3) job duties and responsibilities on the date of the Incident.

**RESPONSE: Bellamy Defendants are not an entity; therefore, this Interrogatory does not apply to them.**

9. Identify all individuals who were present at the Pine Island Club on the day of the incident. For each responsive individual, identify their (1) name, (2) employer, (3) current address, (4) current phone number, (5) what you believe they know as it pertains to the Incident and the claims made by Plaintiffs about the cause of Mr. Myer's death, (6) identify all oral and written statements they have made to anyone, at any time, about the Incident, and (7) for each statement (oral or written), identify to whom it was made, when, and how it was recorded or memorialized.

**RESPONSE: Bellamy Defendants object to this Interrogatory on the grounds that it is overly broad and unduly burdensome. Bellamy Defendants further object to this Interrogatory on the grounds that it seeks information unlikely to lead to any admissible evidence. Subject to and notwithstanding these objections, upon information and belief the Pine Island Club does not keep a log of every person present at Pine Island Club on a daily basis. The following were identified as present at the Pine Island Club on the date of the incident, witnesses to the incident, and were interviewed by law enforcement:**

**Mandy Bellamy  
Defendant  
c/o Collins & Lacy, P.C.  
PO Box 12487  
Columbia, SC 29211**

**Defendant Mandy Bellamy provided oral statements and a written statement to the Lexington County Sheriff's Office on June 15, 2011. Additionally, Defendant Mandy Bellamy provided a recorded statement to Chartis Senior Investigator Michael Funkhouser on or about November 11, 2011.**

**Ralph Bellamy  
Defendant  
c/o Collins & Lacy, P.C.  
PO Box 12487  
Columbia, SC 29211**

**Upon information and belief, no oral or written statements were given by Defendant Ralph Bellamy.**

**Clyde Evan McPherson  
301 Barmount  
Columbia, SC, 29210  
803-217-8322  
802-206-9448**

**Clyde Evan McPherson provided oral statements and a written statement to Lexington County Sheriff's Office on June 16, 2011. Additionally, Mr. McPherson provided an orally recorded statement to Chartis Senior Investigator Michael Funkhouser on or about November 16, 2011.**

**Kim McPherson  
301 Barmount  
Columbia, SC, 29210  
(803) 238-4715  
(803) 924-2896**

**Kim McPherson provided oral statements and a written statement to Lexington County Sheriff's Office on June 16, 2011.**

**John W. ("JW") Seay  
c/o Collins & Lacy, P.C.  
PO Box 12487  
Columbia, SC 29211**

**John W. Seay provided oral statements and a written statement to Lexington County Sheriff's Department upon information and belief on or about June 15, 2011.**

**Detective S. Ellis  
Lexington County Sheriff's Department**

**Upon information and belief, Detective Ellis drafted an Investigative Report in Case No. 11023390 on behalf of Lexington County Sheriff's Department.**

**Deputy Wade Newberry  
Lexington County Sheriff's Department**

**Upon information and belief, Deputy Newberry drafted an Incident Report in Case No. 11023390 on behalf of Lexington County Sheriff's Department.**

**Detective Trish Stoner  
Lexington County Sheriff's Department**

**Detective M. Longshore  
Lexington County Sheriff's Department**

**Captain Rowe  
Lexington County Sheriff's Department**

**CSI Phipps  
Lexington County Sheriff's Department**

**MD White**

**Lowell C. Spires, III  
Lexington County Deputy Coroner**

**Upon information and belief, Lowell Spires, III drafted an Incident Report and Supplemental Report in case number 11-865 on behalf of the Lexington County Coroner's Office on or about June 15, 2011.**

10. How do you believe Mr. Myers died on the date of the Incident?

**RESPONSE: Bellamy Defendants crave reference to Evan Myers' death certificate bates numbered LEX CORONER 0030 (SCANA/BELLAMY).**

11. Why do you believe Mr. Myers died on the date of the Incident?

**RESPONSE: Bellamy Defendants crave reference to Evan Myers' death certificate bates numbered LEX CORONER 0030 (SCANA/BELLAMY).**

12. Who was responsible for the safety of area where Mr. Myers was swimming after 6:30pm on the date of the Incident?

**RESPONSE: Upon information and belief, every person swimming in the freshwaters of Lake Murray at Pine Island Club is responsible for his or her own safety.**

13. Detail (1) all investigations which were performed, by anyone and at any time, surrounding the Incident, (2) the reason(s) for each responsive investigation, (3) all those individuals involved in the responsible investigation(s), (4) who paid for the investigations, (5) who was interviewed in the responsive investigation(s), (5) identify all

documents authored or prepared in the course of each responsive investigation, and (7) the conclusion(s) of each responsible investigation(s).

**RESPONSE:** Bellamy Defendants object to this Interrogatory on the grounds that it is overly broad and unduly burdensome. Bellamy Defendants further object to this Interrogatory on the grounds that it seeks information unlikely to lead to any admissible evidence. Subject to and notwithstanding these objections, upon information and belief, the Lexington County Sheriff's Office and the Lexington County Coroner's Office investigated this incident and drafted reports regarding the same. Upon information and belief, these documents were requested by Plaintiffs and produced to Plaintiffs on or about August 22, 2011. In addition, Senior Investigator Michael Funkhouser of AIG investigated this incident on behalf of SCANA, and provided a report regarding the same on or about November 20, 2011. Finally, upon information and belief, Plaintiffs hired their own private investigator who performed his or her own investigation of this incident.

14. Was anyone disciplined related in any way to what took place at Pine Island Club on the date of the Incident? If so, state (1) who was disciplined, (2) date of discipline, (3) reason for discipline, and (4) result of the discipline (termination, suspension, probation, etc.)

**RESPONSE:** Upon information and belief, no one was disciplined in any way related to this incident.

15. Was there anyone at Pine Island Club on the date of the Incident that was not lawfully on said property? If so, (1) who was not lawfully on the property, (2) how did said person gain access to the property, (3) why do you believe that said person was not lawfully on the property, and (4) what involvement, if any, do you believe said person(s) may have had with the death of Mr. Myers.

**RESPONSE:** Upon information and belief, no one was unlawfully at Pine Island Club on the evening of June 15, 2011.

16. Do you contend that any person, company, and/or agency failed to properly design, construct, maintain and/or warn against any dangerous conditions regarding the manmade lake where the Incident occurred?

**RESPONSE:** Upon information and belief, Bellamy Defendants are not aware of any person, company, and/or agency, which failed to properly design, construct, maintain, and/or warn against dangerous conditions regarding Lake Murray.

17. How did Mr. Myers gain access to Pine Island Club on the date of the Incident?

**RESPONSE:** Mr. Myers was the invited guest of Defendant Mandy Bellamy, a member of Pine Island Club.

18. Who was with Mr. Myers at Pine Island Club on the date of the Incident?

**RESPONSE:** Mr. Myers was the invited guest of Defendant Mandy Bellamy, a member of Pine Island Club, and was with Ms. Bellamy at the Pine Island Club on June 15, 2011.

19. Why was Mr. Myers present at Pine Island Club on the date of the Incident?

**RESPONSE:** See SCANA Defendants' answer to Interrogatories 17 and 18.

20. If you have ever been a party to a lawsuit in South Carolina, detail (1) caption of the action, (2) county where the action was filed, (3) reason for the action, (4) who represented your interests in said civil action, (5) if you were deposed in said civil action, and (6) the resolution of the civil action.

**RESPONSE:** Upon information and belief, Bellamy Defendants have not been a party to a lawsuit, aside from this subject lawsuit. They did, however, engage the services of a lawyer in settlement with an insurance company related to a car accident sustained by Defendant Mandy Bellamy in early 2014.

21. Was there security or life guard(s) on duty at Pine Island Club? If so, identify each person and state the following for the date of the Incident: (1) their full name, (2) current address, (3) current phone number, (4) employer on the date of the Incident, and (5) current employer.

**RESPONSE:** Upon information and belief, Pine Island Club employs the services of lifeguards at their pool area only. Those lifeguards end their duty at 8pm during typical summer hours. However, due to an approaching storm, the pool closed early on June 15, 2011, and the lifeguards were not present at 8pm. These lifeguards are not responsible for overseeing the freshwaters of Lake Murray, where this incident occurred.

22. Was any video taken of any part of Pine Island Club on the date of the Incident? If so, what video was taken, who has the video, and if it was lost when the last time you had custody or control of said video?

**RESPONSE:** Upon information and belief, there were no videos taken of any part of Pine Island Club on June 15, 2011.

Respectfully Submitted,  
COLLINS & LACY, P.C.



By: \_\_\_\_\_

CHRISTIAN STEGMAIER  
[cstegmaier@collinsandlacy.com](mailto:cstegmaier@collinsandlacy.com)  
MEGHAN HAZELWOOD HALL  
[mhall@collinsandlacy.com](mailto:mhall@collinsandlacy.com)  
Post Office Box 12487  
Columbia, SC 29211  
(803) 256-2660 (voice)  
(803) 771-4484 (facsimile)

ATTORNEYS FOR DEFENDANTS

Columbia, South Carolina  
February 25, 2015

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )  
Cassandra M. Myers and Bartholomew )  
Myers in their capacity as Co-Personal )  
Representatives of the Estate of Evan )  
Morris Myers, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
The Consolidated Employee Recreation )  
Clubs, a non-profit organization a/k/a Pine )  
Island Club at Lake Murray, South Carolina )  
Electric and Gas Holding Company, )  
Inc./SCANA, Mandy Nicole Bellamy, )  
Ralph Bellamy, Lexington County )  
Coroner's Office, Lexington County )  
Sheriff's Department, and Lexington )  
County Medical Center Auxiliary. )  
 )  
Defendants. )

IN THE COURT OF COMMON PLEAS  
FOR THE ELEVENTH JUDICIAL CIRCUIT

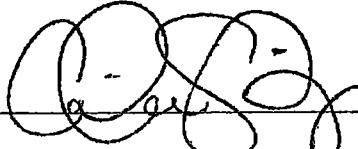
Civil Action No.: 2014-CP-32-02210

**CERTIFICATE OF SERVICE**

I hereby certify that on February 23, 2015, I caused to have served a true and correct copy of the Defendants' Answers to Plaintiffs' First Set of Interrogatories to the below listed counsel of record in this proceeding with sufficient postage and appropriate address.

**COUNSEL SERVED:**

Pedro E. Krompecher, III, Esquire  
Krompecher Law Firm, PLLC  
Post Office Box 6639  
Raleigh, NC 27628  
*Counsel for Plaintiff*



\_\_\_\_\_

# Exhibit G

STATE OF SOUTH CAROLINA )

COUNTY OF LEXINGTON )

Cassandra M. Myers and Bartholomew Myers in their capacity as Co-Personal Representatives of the Estate of Evan Morris Myers, )

Plaintiffs, )

vs. )

The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a Pine Island Club at Lake Murray, South Carolina Electric and Gas Holding Company, Inc.; SCANA, )

Defendants. )

IN THE COURT OF COMMON PLEAS

ELEVENTH JUDICIAL CIRCUIT

Civil Action No.: 2014-CP-32-02210

**ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

FILED  
2015 AUG - 8 P 3:04  
BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON, SC

The Defendants' motion for summary judgment was heard on December 11, 2015. The court has wrestled with the issue for an extended period and has requested additional input from the attorneys in the interim. Having carefully considered the matter, the court finds that summary judgment must be granted. The events giving rise to this lawsuit are the result of a tragic accident, and there is no evidence that they were the result of any negligence or gross negligence on the part of the Defendants.

**FACTUAL/PROCEDURAL BACKGROUND**

The Plaintiffs' decedent drowned on June 15, 2011, after having entered the waters of Lake Murray from a boat dock at the Pine Island Club. Defendants are The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a Pine Island Club at Lake Murray ("Pine Island Club" or the "club"), South Carolina Electric and Gas Holding Company, Inc., and SCANA (all defendants being designated collectively as "SCANA Defendants" or "Defendants"). The Plaintiffs Cassandra M. Myers and Bartholomew Myers, in their capacity as

WPK  
#1

The Plaintiffs assert that the decedent died while on the Pine Island Club premises, so the RUS does not apply. The SCANA Defendants deny that assertion and maintain that he was in the waters of Lake Murray, which are open to the public for recreational use, without charge. In this court's view, the Plaintiffs' decedent had the status of an invitee for purposes of this summary judgment motion. His presence at the club and his access to the lake through it required that he be the guest of someone who held membership status by virtue of relationship to Defendants and the payment of dues. The club is not open to the public.

However, if Plaintiffs' decedent were an invitee, to which a duty of care would be owed (and which SCANA Defendants deny), the Defendants argue that a landowner has no duty to warn of the perils of obvious natural conditions of which an invitee is reasonably aware. Meadows v. Heritage Village Church and Missionary Fellowship, Inc., 305 S.C. 375, 378 (1991) (holding wet grass an open and obvious natural condition). The court agrees.

WPK  
#9

Exhibits in support of the motion were introduced, and those included such things as photos, deposition excerpts, by-laws, and affidavits. The by-laws of the Pine Island Club state, "Swimming in the lake is allowed only in the designated area. Hazards from boating, underground cables, etc., prohibit swimming around docks, ramps or other areas of the Island." A diagram of the property shows the swimming area near the beach, the swimming pool, and three docks. The court is assuming that the dock in question is the one closest to the designated swimming area.

The court finds that there is no evidence that the Defendants' negligence or gross negligence caused or contributed to any dangerous conditions for which the Defendants are responsible. Dangers of swimming in a lake are open and obvious.<sup>4</sup>

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<sup>4</sup> If there were evidence of a proximate cause related to the weather conditions, an

# Exhibit H

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State of South Carolina  
County of Lexington

Court of Common Pleas

Cassandra M. Myers and )  
Bartholomew Myers as )  
Co-Personal Representatives )  
of the Estate of )  
Evan M. Myers, )  
 )  
Plaintiffs, )  
v. )  
 )  
The Consolidated Employee )  
Recreation Clubs, a )  
nonprofit organization a/k/a )  
Pine Island Club at )  
Lake Murray, et al. )  
 )  
Defendants. )

Transcript of Record  
14-CP-32-2210

December 11, 2015  
Lexington, South Carolina

B E F O R E:

The Honorable William P. Keesley, Judge.

A P P E A R A N C E S:

Pedro Krompecher, Esquire  
Attorney for the Plaintiffs

Christian Stegmaier, Esquire  
David Kiebler, Esquire  
Attorneys for the Defendants

Stacy L. Sheppard, RPR  
Circuit Court Reporter

1           Mr. Myers drowned somewhere around that depth  
2 marker. Whether he jumped off the dock or swam from  
3 where he was swimming five minutes before with  
4 Ms. Bellamy, the issue of how he got there if that  
5 water is still water within the eyesight and control  
6 of the Pine Island Club and its subsidiaries is a  
7 question of fact.

8           As a example or as an analogy, if we would have  
9 had the opposite happen in this case, had they  
10 closed the swimming beach for the incoming storm,  
11 but failed to close the swimming pool, failed to  
12 warn and failed to clear, you'd have the same -- the  
13 same application.

14           Ms. Bellamy also talked about in her deposition  
15 that she had seen, at page 77 of her deposition --  
16 Your Honor, the defendants have submitted a few  
17 pages of Ms. Bellamy's deposition. In your binder,  
18 you have the complete deposition. It's lengthy.  
19 But at page 77 in her deposition, she talks about  
20 people swimming around the docks. She also talks  
21 about, at page 81, 84, 85, 88 and 89, walking by the  
22 caretaker and how their presence was acknowledged by  
23 those adults that were next to this vehicle.

24           The question as to whether this is open and  
25 obvious, one, I think exceeds the motion for summary

# Exhibit I

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

William P. Keesley, Circuit Court Judge

---

Case No. 2014-CP-32-02210

---

**RECEIVED**

JAN 20 2017

**SC Court of Appeals**

Cassandra M. Myers and Bartholomew Myers in their capacity as Co-Personal  
Representatives of the Estate of E. M. Myers,

Appellants,

v.

The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a  
Pine Island Club at Lake Murray; South Carolina Electric and Gas Holding  
Company, Inc.; SCANA; and Mandy Nicole Bellamy,

Respondents.

---

**DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL**

---

Appellants propose the following to be included in the Record on Appeal:

- 1) All pleadings, except those, if any, which may hereafter be agreed upon by all parties for exclusion at the completion of the briefing process;
- 2) Answers to all Interrogatories and Request for Production;
- 3) Deposition transcript and exhibits of Mandy Bellamy;
- 4) Affidavits and Supplemental Affidavits of Drs. Francesco Pia and Ralph Johnson;
- 5) E-mail correspondence between the Honorable William P. Keesley and Counsel for both the Plaintiff and the Defendant;
- 6) E-mail correspondence between Plaintiff's counsel and Defendant's counsel;
- 7) All Orders except those, if any, which may hereafter be agreed upon by all parties for exclusion at the completion of the briefing process;

- 8) All Motions except those, if any, which may hereafter be agreed upon by all parties for exclusion at the completion of the briefing process;
- 9) Transcription of the Hearing held on December 11, 2015 before the Honorable William P. Keesley, except those portions, if any, which may hereafter be agreed upon by all parties for exclusion at the completion of the briefing process;
- 10) Notice of Appeal by Appellants;
- 11) Any other document cited in Appellants' Initial Briefs.

I certify that this designation contains no matter which is irrelevant to this appeal.

**GRAHAM LAW FIRM, P.A.**  
**KROMPECHER LAW FIRM, PLLC**



Edward L. Graham (SC Bar: 2483)  
J. Layton Ruffin (SC Bar: 78267)  
Pedro E. Krompecher, III (SC Bar: 100485)  
Post Office Box 550  
Florence, SC 29501  
t. (843) 662-3281  
f. (800) 859-7028  
*Attorneys for Appellants*

Other Counsel of Record:  
Christian Stegmaier  
Megan H. Hall  
**Collins & Lacy, P.C.**  
1330 Lady Street  
Sixth Floor  
Columbia, SC 29201  
*Attorneys for Respondents*

January 19, 2017

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

William P. Keesley, Circuit Court Judge

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Case No. 2014-CP-32-02210

---

**RECEIVED**

JAN 20 2017

SC Court of Appeals

Cassandra M. Myers and Bartholomew Myers in their capacity as Co-Personal  
Representatives of the Estate of E. M. Myers,

Appellants,

v.

The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a  
Pine Island Club at Lake Murray; South Carolina Electric and Gas Holding  
Company, Inc.; SCANA; and Mandy Nicole Bellamy,

Respondents.

---


**PROOF OF SERVICE**

---

I hereby certify that one copy of the *Designation of Matter to be Included in the Record*  
in the above-referenced matter was served by U.S. Mail, postage prepaid, on January 19, 2017  
addressed to the following counsel of record:

Christian Stegmaier  
Megan H. Hall  
**Collins & Lacy, P.C.**  
1330 Lady Street  
Sixth Floor  
Columbia, SC 29201

**GRAHAM LAW FIRM, P.A.**  
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*Attorneys for Appellant*

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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JAN 20 2017

SC Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

William P. Keesley, Circuit Court Judge

Case No. 2014-CP-32-02210

Cassandra M. Myers and Bartholomew Myers in their capacity as Co-Personal  
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Appellants,

v.

The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a  
Pine Island Club at Lake Murray; South Carolina Electric and Gas Holding  
Company, Inc.; SCANA; and Mandy Nicole Bellamy,

Respondents.

**PROOF OF SERVICE**

I hereby certify that one copy of the *Appellants' Initial Brief* in the above-referenced  
matter was served by U.S. Mail, postage prepaid, on January 19, 2017 addressed to the following  
counsel of record:

Christian Stegmaier  
Megan H. Hall  
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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

William P. Keesley, Circuit Court Judge

---

Appellate Case No. 2016-002487

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**RECEIVED**

MAY 24 2017

SC Court of Appeals

Cassandra M. Myers and Bartholomew Myers in their capacity as Co-Personal  
Representatives of the Estate of E. M. Myers, Appellants,

v.

The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a  
Pine Island Club at Lake Murray; South Carolina Electric and Gas Holding  
Company, Inc.; SCANA; and Mandy Nicole Bellamy, Respondents.

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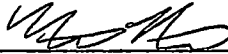
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---

I hereby certify that one copy of the *Appellants' Return To Respondent's Motion To Dismiss* in  
the above-referenced matter was served by U.S. Mail, postage prepaid, on May 22, 2017  
addressed to the following counsel of record:

Christian Stegmaier  
Megan H. Hall  
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Sixth Floor  
Columbia, SC 29201

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*Attorneys for Appellants*



# GRAHAM LAW

*Shining a Light on Safety, Guiding the Way to Justice.*

Edward L. Graham  
Diane M. Rodriguez  
J. Layton Ruffin

May 22, 2017

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

**RECEIVED**  
MAY 24 2017  
SC Court of Appeals

Re: Cassandra M. Myers and Bartholomew Myers in their capacity as Co-Personal Representatives of the Estate of Evan Morris Myers, Appellants, v. The Consolidated Employee Recreation Clubs, a non-profit organization a/k/a Pine Island Club at Lake Murray; South Carolina Electric and Gas Holding Company, Inc.; SCANA, Respondents.  
Appellate Case No. 2016-002487

Dear Ms. Kitchings:

Enclosed for filing is one original and seven copies of the Appellants' Return to the Respondent's Motion to Dismiss and the requisite \$25 filing fee in the above case. Please return a clocked copy to me using the enclosed self-addressed, stamped envelope.

Thank you for your attention to this matter.

Very truly yours,

J. Layton Ruffin  
Enclosures  
cc: Christian Stegmaier  
Megan H. Hall

GRAHAM LAW FIRM, P.A.  
383 West Cheves Street, Florence, SC 29501

MAIN OFFICE  
P.O. Box 550, Florence, SC 29503  
Phone 843.662.3281

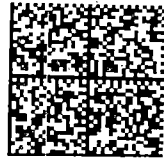
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EFax 1.800.859.7028

EGraham@GrahamLawFirm.net • DianeR@GrahamLawFirm.net • JLRuffin@GrahamLawFirm.net

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