

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Roger M. Young, Sr., Circuit Court Judge

Trial Court Case Nos.
2011CP-10-7065 and 2015-CP-10-3550

Appellate Case No. 2017-000866

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FEB 12 2018
SC Court of Appeals

Richard Ralph and Eugenia Ralph,

Appellants,

v.

Paul Dennis McLaughlin
and Susan Rode McLaughlin,

Respondents.

**APPELLANTS' MOTION TO STRIKE MATERIAL IN RESPONDENTS'
DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellants hereby move to strike from the Record various deposition transcripts and exhibits nominated by the Respondents in their Designation of Matters to Be Included in the Record on Appeal. Rule 210(c) of the South Carolina Appellate Court Rules states that “[t]he Record shall not, however, include matter that was not presented to the lower court or tribunal.”

Specifically, the Appellants move to strike the following items—and all references to them in the Respondents’ brief—because they were never presented to the lower court:

Item 28, Transcript of Richard Ralph Deposition, October 8, 2013;

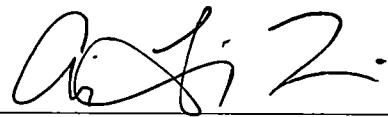
Item 29, Transcript of John Thompson Deposition, June 12, 2014;

Item 30, Transcript of Paul McLaughlin Deposition, October 11, 2013;

Item 42, September 22, 2008 email from John Thompson to the Ralphs and McLaughlins,
Exhibit 9 to Deposition of Richard Ralph.

Because the standard of review for this Court includes examining the evidence (and the inferences that can be drawn therefrom), it is especially critical that only those matters considered by the lower court be included in the Record. (*see* Appellants' Initial Brief, pp. 7). Therefore, Appellants respectfully request that this Court would grant this Motion.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "A. Fisher Tillman", written over a horizontal line.

Ainsley Fisher Tillman
Attorney for Appellants

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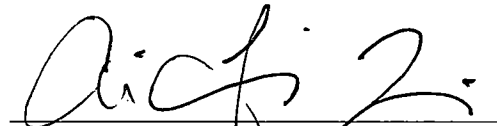
v.

Paul Dennis McLaughlin
and Susan Rode McLaughlin,

Respondents.

PROOF OF SERVICE

I certify that I have served the *Appellants' Motion to Strike Material in Respondents' Designation of Matters to Be Included in the Record on Appeal* upon Respondents by depositing a copy of that item in the United States Mail, postage prepaid, on February 9th, 2018, addressed to their attorney of record, G. Hamlin O'Kelley, III, 652 Coleman Boulevard, Suite 200, Mount Pleasant, South Carolina, 29464.



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February 9, 2018

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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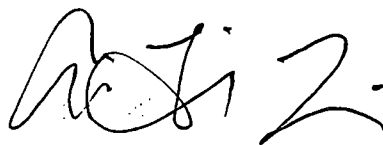
Re: *Richard Ralph and Eugenia Ralph v. Paul Dennis McLaughlin and Susan Rode McLaughlin*
Appellate Case No. 2017-000866

Dear Ms. Kitchings,

Enclosed for filing in the above matter, please find the *Appellants' Motion to Strike Material in Respondents' Designation of Matters to Be Included in the Record on Appeal*, along with proof of service on the Respondents, and the requisite filing fee.

I appreciate your assistance with this matter. Please do not hesitate to contact me with any questions that you may have.

Yours very truly,



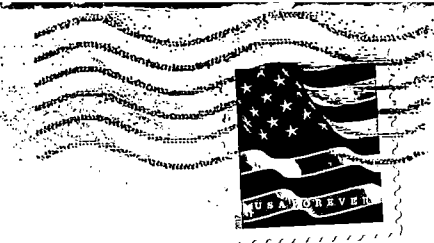
Ainsley F. Tillman
Attorney for Appellants

cc: G. Hamlin O'Kelley, III, Esquire
Attorney for Respondents

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Hon. J. A. KITTINGER

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