

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM BARNWELL COUNTY
Court of Common Pleas

Doyet A. Early, III, Barnwell County Circuit Court Judge
Case No. 2016-CP-06-00045

Appellate Case No. 2018-000500

Henry David Still, V,

Appellant,

v.

Barbara Wrenn Vaughn, Personal Representative
of the Estate of Barbara B. Still, and Personal
Representative of the Estate of Henry David Still,
IV,

Respondents.

**APPELLANT'S RESPONSE TO MOTION TO STRIKE MATTER FROM
RECORD**

F. Truett Nettles, II (S.C. Bar #4195)
Finkel Law Firm LLC
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(843) 577-5460
Attorney for Appellant

The Respondent has filed a Motion to Strike Matter from Record on Appeal with this Appellate Court. That Motion objects to three (3) items included by the Appellant in the proposed Record on Appeal:

1. Affidavit of Gloria Fickling;
2. Affidavit of Eugene B. Fickling; and
3. Transcript of Hearing, July 25, 2017; Pages 19-33.

The Appellant included those matters in his proposed Record on Appeal to provide this Appellate Court with a full description of matters pending in the lower court upon the Respondent's Motion for Summary Judgment. Upon further review of Rule 209(a), SCACR, the undersigned counsel for the Appellant agrees with the Respondent and the two Affidavits proposed by the Appellant in items 4 & 5 should be removed from the proposed Record.

The Respondent's Motion to Strike also objects to pages 19-33 of the Transcript of Hearing on July 25, 2017 on the Respondent's initial Motion for Summary Judgment. The Appellant had proposed to include the entire transcript of that initial hearing on the Respondent's Motion for Summary Judgment in item 6 of the Appellant's Designation of Matter to be included in the Record on Appeal. The entire hearing transcript is only 32 pages long. The Appellant believes that such a short transcript would not be overly broad and would provide this Appellate Court with a full understanding of the rational and rulings of the lower court.


In the Appellant's Initial Brief, the Appellant only makes references to the transcript of that hearing in the lower court on pages 12, 14 and 32. Since most of the transcript of hearings on pages 19-32 concerns procedural matters such as discovery,

mediation and scheduling, the Appellant has no objection to the removal of pages 19-31 of the Transcript of Hearing, July 25, 2017. However, the Appellant believes that the Hearing Transcript, p. 32, Lines 12-17, contains the rationale of the lower court and its intent to consolidate the Appellant's two causes of action in the Court of Common Pleas. Since the Court issued a Form 4 Order in deciding in its initial denial of the Motion for Summary Judgment, the explanation by the lower court of its intent to consolidate both matters in the Court of Common Pleas is relevant to this Appeal.

THEREFORE, the Appellant consents to the removal of the Affidavit of Gloria Fickling and the Affidavit of Eugene B. Fickling from the proposed Record. The Appellant also consents to the removal of pages 19-31 of the Transcript of Hearing, July 25, 2017, leaving pages 1-18 and page 32 of the Transcript of that Hearing in the Record on Appeal.

Respectfully submitted,

July 02, 2018



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PROOF OF SERVICE

I hereby certify that on this, the 2nd day of July, 2018, a copy of the *Appellant's Reply Brief and Appellant's Response to Motion to Strike Matter from Record* was served upon the Respondents by mailing a copy of the same with sufficient first class postage affixed thereto and addressed as follows:

R. Aaron Ness, Esq.
Ness & Jett, LLC
P. O. Box 909
Bamberg, SC 29003



Brittany Walker
Litigation Paralegal
Finkel Law Firm LLC
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F. TRUETT NETTLES, II, ESQUIRE
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REPLY TO:
CHARLESTON LITIGATION

July 2, 2018

Sent Via UPS Overnight

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

Re: *Henry David Still, V vs. Barbara Wrenn Vaughn, Personal Representation of the Estate of Barbara B. Still, and Personal Representation of the Estate of Henry David Still, IV*
Appellate Case No. 2018-000500

Dear Ms. Kitchings:

Enclosed for filing, please find the following documents:

- (1) *Appellant's Reply Brief*;
- (2) *Appellant's Response to Motion to Strike Matter from Record*; and
- (3) the accompanying *Proof of Service*.

I have included the original one additional copy of each and a prepaid, self-addressed envelope so that filed copies may be returned to our office. By copy of this correspondence, including enclosures, all interested Parties are being served with same.

If you have any questions or concerns, please contact me at your convenience.

With personal and professional regards, I am

Sincerely,

F. Truett Nettles, II

FTN/bsw

cc: Aaron Ness, Attorney for Respondents

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