

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Larry B. Hyman, Circuit Court Judge

Appellate Case No. 2018-000735
Trial Court Case No. 2017-CP-26-2910

RECEIVED
SEP 05 2018
SC Court of Appeals

Kenneth A. Davis as Personal Representative
of the Estate of Kenneth Miles Davis,

Respondent,

v.

Cole Austin Dunn and John Richard Smith,

Appellants.

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

Ellis R. Lesemann, Esq.
J. Taylor Powell, Esq.
LESEMANN & ASSOCIATES LLC
418 King Street, Suite 301
Charleston, SC 29403
(843) 724-5155
Attorneys for Respondent

Respondent Kenneth A. Davis, as the Personal Representative of the Estate of Kenneth Miles Davis proposes the following matter be included in the Record on Appeal, in addition to the items designated by Appellants:

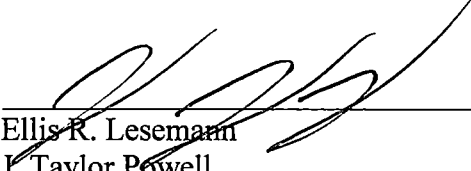
1. Summons and Complaint, including the following Exhibit:
 - a. Firearms Trace Summary issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.
2. Answer and Counterclaims, including the following Exhibits:
 - a. Order Approving Wrongful Death Settlement;
 - b. Covenant Not to Execute;
 - c. Tyger River Letter from Respondent's Counsel to Farm Bureau dated January 30, 2017, not including Exhibits A-D;
 - d. Letter from Farm Bureau to Respondent's Counsel dated January 31, 2017;
 - e. Letter from Respondent's counsel to Appellants' counsel dated June 7, 2017, including Exhibits A-J;
 - f. Letter from Appellants' counsel to Respondent's counsel dated June 12, 2017, including Farm Bureau Homeowner Policy; and,
 - g. Letter from Respondent's counsel to Appellants' counsel dated June 13, 2017.
3. Respondent's Motion to Dismiss Counterclaims including the following Exhibit:
 - a. Covenant Not to Execute.
4. Appellants' Notice of Motion and Motion to Dismiss and/or To Reform.
5. Appellants' Memorandum Supporting Motion to Dismiss and/or To Reform, and Opposition to Respondent's Motion to Dismiss Counterclaims, including the following Exhibits:
 - a. Order Approving Wrongful Death Settlement;
 - b. Covenant Not to Execute;
 - c. Tyger River Letter from Respondent's Counsel to Farm Bureau dated January 30, 2017, not including Exhibits A-D;
 - d. Letter from Farm Bureau to Respondent's Counsel dated January 31, 2017;

- e. Letter from Respondent's counsel to Appellants' counsel dated June 7, 2017, including Exhibits A-J;
 - f. Letter from Appellants' counsel to Respondent's counsel dated June 12, 2017, including Farm Bureau Homeowner Policy; and,
 - g. Letter from Respondent's counsel to Appellants' counsel dated June 13, 2017.
6. Respondent's Memorandum in Opposition to Appellants' Motion to Dismiss Complaint, Motion to Dismiss Cole Dunn as a Party, and Motion to Reform Covenant Not to Execute, including the following Exhibits:
- a. Declaration Page of Farm Bureau Homeowner Policy;
 - b. Tyger River Letter from Respondent's Counsel to Farm Bureau dated January 30, 2017, including Exhibits A-D;
 - c. Letter from Farm Bureau to Respondent's Counsel dated January 31, 2017;
 - d. Covenant Not to Execute; and,
 - e. Farm Bureau Homeowner Policy.
7. Form 4 Judgment in a Civil Case.
8. Order dated April 9, 2018.
9. Transcript of Motions Hearing Held September 12, 2017.
10. Appellants' Notice of Appeal.

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

Respectfully submitted,

By: _____


Ellis R. Lesemann
J. Taylor Powell
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Charleston, SC 29403
(843) 724-5155
Attorneys for Respondent

September 4, 2018
Charleston, South Carolina

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PROOF OF SERVICE

I hereby certify that I have this date served (via federal express overnight delivery) a true and correct copy of the **Initial Brief of Respondent** and **Respondent's Designation of Matter to be Included in the Record on Appeal** and to the following counsel of record:

J. Dwight Hudson, Esq.
Hudson & Graham Law Offices
2513 North Oak Street, Suite 210
Waverly Centre
Myrtle Beach, SC 29577
Attorney for Appellants

By: 
J. Taylor Powell

September 4, 2018
Charleston, South Carolina