

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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FEB 01 2019  
SC Court of Appeals

APPEAL FROM Horry County  
Court of Common Pleas

Cynthia Graham Howe, Master-In-Equity

Appellate Case No. 2018-001590

Andrew Waldo; Jane Zheng; and SC Coast Properties, LLC d/b/a  
Keller Williams Realty.....Respondents,

v.

Michael Cousins; Founders Five, LLC d/b/a Sperry Van Ness Founders  
Group; and South Carolina Association of REALTORS®.....Defendants,

Of Which South Carolina Association of REALTORS®..... Appellant.

**APPELLANT SOUTH CAROLINA ASSOCIATION OF REALTORS®'  
DESIGNATION OF MATTER TO BE INCLUDED IN THE  
RECORD ON APPEAL**

Marcus A. Manos, SC Bar #011876  
Christopher R. Hampton, SC Bar #102262  
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Attorneys for Appellant South Carolina  
Association of REALTORS®

The Appellant proposes the following to be included in the Record on Appeal:

1. Order Granting Defendant National Golf Management, LLC's Motion to Dismiss, filed January 11, 2016;
2. Order Vacating Arbitration Award, filed August 16, 2018;
3. Order Granting Appellants' Motion to Consolidate, Denying Respondents' Motions to Dismiss or in the Alternative for Summary Judgment, and Denying Respondent Cousins & Founders Five, LLC's Motion to Confirm Arbitration Award, filed September 23, 2016;
4. Order Granting Limited Motion to Reconsider and Amending Order of September 23, 2016, filed February 21, 2017;
5. Consent Order of Reference to Master-in-Equity, filed April 3, 2017;
6. Award of Arbitrators, February 2, 2016;
7. Notice of Appeal of the Award of Arbitrators, filed March 1, 2016;
  - a. Exhibit A – Award of Arbitrators;
  - b. Exhibit B – Order Granting Defendant National Golf Management, LLC's Motion to Dismiss, filed December 8, 2015;
8. Respondent Michael Cousins' Response to Notice of Appeal, filed March 30, 2016;
9. Motion to Dismiss of Defendant South Carolina Association of REALTORS®, filed April 12, 2016;
10. Defendant South Carolina Association of Realtors®' Memorandum in Support of Motion to Dismiss, filed April 14, 2016;

- a. Exhibit 1 – Affidavit of Heather Tenney, dated April 11, 2016;
  - i. Attachment A – Electronic Application of REALTOR® Waldo;
  - ii. Attachment B – Cover page and relevant portions of the Coastal Carolinas Association of REALTORS® Rules;
  - iii. Attachment C – Cover page and relevant portions of the Coastal Carolinas Association of REALTORS® Bylaws;
- b. Exhibit 2 – Affidavit of Lindsey Davidson, dated April 8, 2016;
  - i. Attachment A – Cover page and relevant portions of the National Association of REALTORS® Code of Ethics;
  - ii. Attachment B – Cover page and relevant portions of the South Carolina Association of REALTORS® Bylaws;
  - iii. Attachment C – Request for Arbitration submitted by REALTOR® Andrew Waldo;
  - iv. Attachment D - REALTOR® Andrew Waldo's Request for Review of Arbitration Award;
  - v. Attachment E – Notice of Review Hearing;
  - vi. Attachment F – Request for Continuance of Review Hearing;

- vii. Attachment G – Notice of new Review Hearing date;
  - viii. Attachment H – Notice of rescheduling of Review Hearing;
11. Response to Notice of Appeal By Respondents Michael Cousins, Founders Five, LLC d/b/a Sperry Van Ness Founders Group, filed March 30, 2016;
  12. Notice of Motion and Motion of Respondent Michael Cousins to Confirm Arbitration Award and Enter Judgment, filed March 6, 2017;
  13. Memorandum in Support of Respondent Michael Cousins' Motion to Confirm Arbitration Award and Enter Judgment, filed June 22, 2016;
  14. Memorandum in Opposition to Respondent Michael Cousins' Motion to Confirm Arbitration Award and Enter Judgment, filed May 19, 2016;
  15. Motion to Dismiss or, In the Alternative, For Summary Judgment and Memorandum in Support, filed June 17, 2016;
    - a. Exhibit 3 – Second Affidavit of Lindsey Davidson, dated June 15, 2016;
  16. Waldo's Memorandum in Opposition to Cousins's Motion to Dismiss, or, in the Alternative, For Summary Judgment, filed July 25, 2016;
    - a. Exhibit F – Affidavit of Michael Cousins, dated November 12, 2015;
      - i. Exhibit 1 – Agreement of Purchase and Sale;
      - ii. Exhibit 2 – Sellers Closing Statement (Colonial);

- iii. Exhibit 3 – Contract of Sale;
  - iv. Exhibit 4 – Sellers Closing Statement (Aberdeen);
  - v. Exhibit 5 – Email communications between Bob Mauragas and Michael Cousins;
  - vi. Exhibit 7 – Non-Binding Term Sheet (to Mike Cousins);
  - vii. Exhibit 8 – Email communications between Matt Magee and Michael Cousins;
  - viii. Exhibit 9 – Email communications between Michael Cousins and Jane Zheng;
  - ix. Exhibit 10 – Non-Binding Term Sheet (to Jane Zheng);
  - x. Exhibit 11 – Email communications between Bob Mauragas, Jane Zheng and Michael Cousins;
  - xi. Exhibit 12 – Agreement of Purchase and Sale;
17. Defendant South Carolina Association of REALTORS®' Reply to Plaintiff's Memorandum in Opposition to Defendant's Motion to Dismiss or, in the Alternative, for Summary Judgment, filed September 6, 2016;
18. Notice of Motion and Motion by Respondent Michael Cousins, Founders Five, LLC d/b/a Sperry Van Ness, and Founders Group for Reconsideration of Motion to Confirm Arbitration Award, filed September 29, 2016;
19. Memorandum in Support of Motion for Reconsideration, filed September 29, 2016;

20. Supplemental Memorandum in Support of Defendants' Motion for Reconsideration, filed October 14, 2016;
  - a. Exhibit A – Affidavit of Lindsey Davidson, dated October 6, 2016;
    - i. Attachment A – National Association of REALTORS® Code of Ethics and Arbitration Manual;
21. Appellants' Memorandum in Opposition to Motion for Reconsideration, filed October 14, 2016;
22. Defendant South Carolina Association of REALTORS® Responses to Plaintiff's Applications to Vacate the Award, filed October 31, 2016;
23. Defendant South Carolina Association of REALTORS® Memorandum in Support of Motion to Confirm Arbitration Award, filed June 20, 2017;
  - a. Exhibit 5 – Decision of the Procedural Review Hearing Tribunal, dated May 2, 2016;
24. Supplemental Memorandum in Support of Cousins' Motion to Confirm Arbitration Award, filed June 19, 2017;
25. Transcript of Hearing Before the Honorable Cynthia Graham Howe, June 21, 2017;

Pursuant to Rule 209(c), SCACR, the undersigned certifies that this designation contains no matter which is irrelevant to the appeal.



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Attorneys for Appellant South Carolina  
Association of REALTORS®

February 1, 2019

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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SC Court of Appeals

\_\_\_\_\_  
Appeal from Horry County  
Court of Common Pleas

Cynthia Graham Howe, Master-In-Equity, Circuit Court Judge

\_\_\_\_\_  
Case No. 2018-001609  
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Andrew Waldo; Jane Zheng; and SC Coast Properties, LLC d/b/a  
Keller Williams Realty..... Respondents,

v.

Michael Cousins; Founders Five, LLC d/b/a Sperry Van Ness Founders Group;  
and South Carolina Association of REALTORS®..... Defendants

Of Whom South Carolina Association of REALTORS® are..... Appellants.

\_\_\_\_\_  
**PROOF OF SERVICE**  
\_\_\_\_\_

The undersigned hereby certifies that a copy of the **Initial Brief Of Appellant South Carolina Association Of REALTORS®** and **Designation Of Matter To Be Included In The Record On Appeal** has been served upon counsel of record via electronic mail and by depositing a copy of the same, first-class postage prepaid, in the United States Mail, on the 1st day of February, 2019, to the addresses shown below.

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Myrtle Beach, South Carolina 29578  
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NEXSEN PRUET, LLC

Columbia, South Carolina

Marcus A. Manos  
Member  
Admitted in SC, NC, DC

February 1, 2019

**VIA HAND DELIVERY**

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

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**FEB 01 2019**  
**SC Court of Appeals**

**RE: Andrew Waldo, Jane Zheng and SC Coast Properties, LLC d/b/a Keller Williams Realty vs. Michael Cousins, Founders Five, LLC d/b/a Sperry Van Ness Founders Group, and South Carolina Association of REALTORS® / Appellant Case No. 2018-001609**

Dear Ms. Kitchings:

Enclosed for filing are an original and one copy each of the **Initial Brief Of Appellant South Carolina Association of REALTORS®, Appellant South Carolina Association of REALTORS®' Designation Of Matter To Be Included In the Record On Appeal, and Proof of Service** in the above-referenced matter. Please return a filed stamped copy to me via our courier.

By copy of this letter and as evidence by the attached Proof of Service, we are serving counsel of record with the above Initial Brief.

Thank you for your assistance in this matter.

With best regards, I am

Very truly yours,

Marcus A. Manos

MAM/hjr  
Enclosures

cc w/encl.: Douglas M. Zayicek, Esquire  
L. Sidney Connor, IV, Esquire

- Charleston
- Charlotte
- Columbia**
- Greensboro
- Greenville
- Hilton Head
- Myrtle Beach
- Raleigh