

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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MAY 08 2019

SC Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
J. Ernest Kinard, Jr., Circuit Court Judge

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Appellate Case No. 2015-00003

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The Callawassie Island Members Club, Inc.....Respondent,

v.

Mark K. Quinn and Sherry B. Quinn .....Defendants.

Of whom, Mark K. Quinn is.....Appellant.

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**RETURN IN OPPOSITION TO APPELLANT'S  
MOTION TO SUPPLEMENT RECORD ON APPEAL**

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On May 1, 2019, the Appellant Mark Quinn filed a Motion to Supplement Record on Appeal whereby he seeks to add to the appellate record supplemental materials consisting of a Foreclosure Master-in-Equity Deed recorded October 12, 2016, and a Judgment of Foreclosure and Sale filed May 18, 2016. The Respondent Callawassie Island Members Club, Inc. ("CIMC") opposes this motion for several reasons.

First, the motion is not timely filed. This appeal was filed on December 29, 2014. The appeal is scheduled for oral argument *on rehearing* on May 7, 2019. The Appellant waited until a week before oral argument to seek to supplement the record with documents that were created and available to the Appellant in 2016. In addition, while the Appellant overnighted the motion to the Court of Appeals for filing, he only placed a copy in the regular mail to the Respondent's counsel, who did not receive a copy until May 3, 2019, which was two business days prior to oral argument. Fundamental fairness alone dictates that the Court should not permit an "eleventh hour" supplementation of the appellate record in this manner.

Second, the documents sought to be supplemented were created in 2016. The record in the Circuit Court, however, was closed in 2014. Without dispute, the supplemental materials were never submitted to the Circuit Court for its consideration. Using mandatory language, Rule 210(c), SCACR, states that "[t]he Record shall not ... include matter which was not presented to the lower court or tribunal." Rule 210(c), SCACR. The rule provides for no exceptions. In short, these supplemental materials were not presented to the Circuit Court, and as a result, cannot be included in the appellate record.

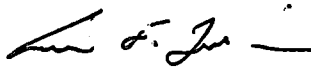
Third, the supplemental materials have no relevance to any of the issues presented to or decided by the Circuit Court which are on appeal. The Appellant argues that "the requested supplemental materials would aid in this Court's determination on damages," but that is not accurate because the judgment on appeal

was entered in 2014. In actuality, the Appellant is improperly attempting to use this motion to supplement his arguments that were not made to the Circuit Court and to make inaccurate factual statements that post-date the judgment on appeal.

The Court is urged to soundly reject and repudiate these improper appellate tactics and to deny the request to supplement the record on appeal in this manner.

Respectfully submitted,

LINDEMANN, DAVIS & HUGHES P.A.

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*Counsel for Respondent*  
*The Callawassie Island Members Club, Inc.*

May 6, 2019

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CERTIFICATE OF SERVICE

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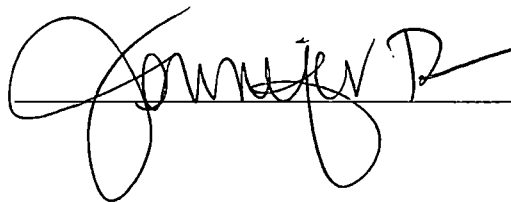
SC Court of Appeals

The undersigned employee of Lindemann, Davis & Hughes, P.A., counsel for the Respondent, does hereby certify that service of the **Return in Opposition to Appellant's Motion to Supplement Record on Appeal** was made upon all counsel of record by email and by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 6th day of May 2019:

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May 6, 2019

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SC Court of Appeals

*Of Counsel*

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**Hand Delivered**

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

RE: The Callawassie Island Members Club, Inc. v. Mark K. Quinn and Sherry B. Quinn  
Appellate Case Number: 2015-000003  
Civil Action Number: 2012-CP-07-3216  
Our File Number: 79.20034

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven copies of the **Return in Opposition to Appellant's Motion to Supplement Record on Appeal** in the above referenced matter. Please file the original and return a clocked-in copy to me in the enclosed envelope.

By copy of this letter, I am serving copies on all counsel of record by email and U.S. Mail. Thank you for your assistance in this matter. If you have any questions, please advise.

Sincerely,

LINDEMANN, DAVIS & HUGHES, P.A.

Andrew F. Lindemann

AFL/jmb  
Enclosures

The Honorable Jenny Abbott Kitchings  
May 6, 2019  
Page Two

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cc: (w/ Enclosure)

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