

IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM THE BEAUFORT COUNTY  
COURT OF COMMON PLEAS

HONORABLE MARVIN H. DUKES, III  
BEAUFORT COUNTY MASTER-IN-EQUITY AND  
SPECIAL CIRCUIT COURT JUDGE

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CASE NO.: 2014-CP-07-0052  
APPELLATE CASE NO.: 2018-001969

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**RECEIVED**  
JUN 14 2019  
SC Court of Appeals

Lady Beaufort, LLC &  
Tideland Realty, Inc.

Respondents/Appellants,

vs.

Hird Island Investments, Inc., Sherwood N. Fender,  
Addison D. Fender, Martha B. Fender, William B. Bowen,  
Lady Kemmerlin, LLC, Brickyard Holdings, Inc. and  
A&K Holding Co., LLC,

Defendants,

AND

William M. Bowen,

Third-Party Plaintiff,

v.

James S. Kerr and Matt Trumps,

Third-Party Defendants,

Of Which Hird Island Investments, Inc.  
and Sherwood N. Fender are

Appellants/Respondents.

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RETURN OF APPELLANTS/RESPONDENTS TO THE MOTION OF  
RESPONDENTS/APPELLANTS FOR LEAVE TO FILE AND  
SERVE AN AMENDED DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL

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The Respondents/Appellants (“Lady Beaufort, et al.”) have moved for leave to file an Amended Designation of Matter to be Included in the Record on Appeal. This Return to this motion is filed on behalf of the Appellants/Respondents, Hird Island Investments, Inc. and Sherwood N. Fender (“Fender”) in opposition to said motion.

In its motion, Lady Beaufort, et al. requests permission to amend its Designation of Matter to be Included in the Record on Appeal by adding the transcript of the proceedings that were held on November 11, 2017 before the Beaufort County Master In Equity. Lady Beaufort, et al. explains that the transcript was “inadvertently omitted” from the designation of matter, and this omission was not discovered until after the Record on Appeal had been prepared and filed.

Notably, Lady Beaufort, et al. fails to set forth in its motion any just cause or excuse for the inadvertent omission.

If this motion had been filed earlier in the proceedings, then the undersigned counsel for Fender most likely would not have objected, but at this late date granting the motion would result in great hardship and expense, for two (2) reasons.

First, the Record on Appeal has been prepared, finalized, and filed. Preparing the Record on Appeal involved considerable time and expense. If the motion is granted, the Record on Appeal will have to be completely re-done, resulting in additional time and expense to Fender.

Second, the briefs have already been written. The brief of Appellants/Respondents Fender was designed, drafted and prepared in reliance on the designations of matter and the current Record on Appeal. If the motion is granted, then the additional transcript which is sought to be included will need to be obtained, studied, and the existing briefs analyzed and possibly re-drafted and re-done in order to account for the additional material. This would involve additional expense to the Appellants/Respondents Fender.

It is accordingly respectfully requested that the motion of the Respondents/Appellants for leave to file and serve an Amended Designation of Matter to be Included in the Record on Appeal be denied.

Respectfully submitted,

MOSS, KUHN & FLEMING, P.A.

By:

  
Fred Kuhn, Jr.

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Post Office Drawer 507

Beaufort, South Carolina 29901

(843)524-3373 - Telephone

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Beaufort, South Carolina  
June 11, 2019

Attorneys for the Appellants/Respondents

IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Third-Party Plaintiff,

v.

James S. Kerr and Matt Trumps,

Third-Party Defendants,

Of Which Hird Island Investments, Inc.  
and Sherwood N. Fender are

Appellants/Respondents.

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CERTIFICATE OF SERVICE


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Undersigned certifies that the **Return of Appellants/Respondents to the Motion of Respondents/Appellants for Leave to File and Serve and Amended Designation of Matter**

to be Included in Record on Appeal to which this certificate is affixed, was served upon the party (s) to this action by hand delivery or by depositing a copy of same, enclosed in a first class, postpaid wrapper properly addressed to the attorney(s) of record:

Andrew K. Epting, Jr., Esquire  
Jaan G. Rannik, Esquire  
46A State Street  
Charleston, South Carolina 29401  
Attorneys for the Respondent  
Lady of Beaufort, LLC

in a post office or official depository under the exclusive care and custody of the United States Postal Service, on June 2, 2019.

By:   
Sue Radford

LAW OFFICES

MOSS, KUHN & FLEMING P.A.

JAMES H. MOSS  
H. FRED KUHN, JR.  
CORY H. FLEMING\*

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June 11, 2019

RECEIVED

JUN 14 2019

SC Court of Appeals

Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: Lady Beaufort, LLC, et al. v. Hird Island Investments, Inc., et al.  
Appellate Case No.: 2018-001969

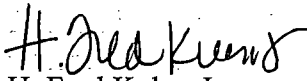
Dear Mrs. Kitchings:

Enclosed please find the original and seven (7) copies of the Return of Appellants/Respondents to the Motion of Respondents/Appellants for Leave to File and Serve an Amended Designation of Matter to be Included in the Record on Appeal regarding the above-referenced matter. I would appreciate your returning one (1) filed copy to me in the enclosed self-addressed stamped envelope. By copy of this letter I am serving a copy of the motion on all counsel of record.

With kindest regards, I am

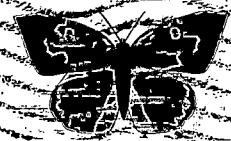
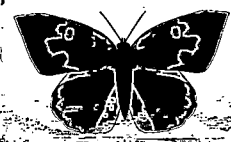
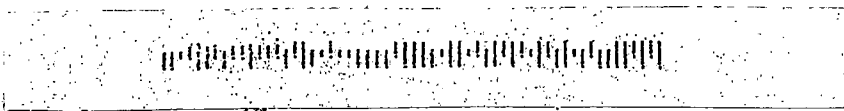
Very truly yours,

MOSS, KUHN & FLEMING, P.A.

  
H. Fred Kuhn, Jr.

HFKjr:sr  
Enclosures

cc: Andrew K. Epting, Jr., Esquire  
Jaan G. Rannik, Esquire



CHARLESTON SC 294  
WED 12 JUN 2019 4M

**MOSS, KUHN & FLEMING, P.A.**  
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To:

Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
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