

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

SC Court of Appeals

G. Thomas Cooper, Circuit Court Judge
Jocelyn Newman, Circuit Judge

APPELLATE CASE NO. 2018-000948
CASE NO. 2015-CP-40-5598

Modesta Brinkman, David
Brinkman, James Coleman,
Carl Foster, Karen Foster,
Robert Collins,

Appellants,

v.

City of Columbia, South
Carolina, North American
Pipeline Management and
Layne Inliner,

Respondents.

SUPPLEMENT TO THE RECORD ON APPEAL

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- 1 A. Well, we're -- I think Reed and I are saying, what
2 the hell is going on? And the boss said that
3 they're -- they're contracted with the City of
4 Columbia to open up the easement and to make a road
5 so they could bring equipment in there. And I told
6 them I have an easement at the house, it shows 15
7 feet, if I'm correct. And he said, "I think it's
8 15 or 25, whatever, I can't -- I can't stay within
9 15 feet because the equipment is too big."
10 Q. That's what he said to you?
11 A. Yes.
12 Q. And the "he" there, is that the gentleman who's
13 driving the trackhoe?
14 A. It was the gentleman driving the trackhoe.
15 Q. And you mentioned this gentleman, Reed. Is that
16 his last name?
17 A. No, that's his first name and I -- I can't remember
18 his last name. His -- he was the son of a friend
19 of the Holders.
20 Q. How long was he at that property?
21 A. A year or two. I -- I never saw -- I barely saw
22 him.
23 Q. Do you know if he still lives in Columbia?
24 A. I don't know.
25 Q. How long after this February 2015 time period did

- 1 Q: Was there any -- do you recall any discussion
2 of an easement prior to, prior to the
3 commencement of the clearing work or the
4 grading work?
- 5 A: Yes.
- 6 Q: Tell me about that discussion.
- 7 A: We knew we had one. The plan that we found
8 stated that it was 15 feet wide.
- 9 Q: Okay. Do you recall when that was discovered?
- 10 A: I don't know the exact date.
- 11 Q: Was it months before the work or days or?
- 12 A: It would've been in the months or weeks leading
13 up to work.
- 14 Q: Who was in on that discussion about the
15 easement parameters?
- 16 A: Meghan was. The document that I've seen was
17 provided by Emilia Floyd, she's with CDM.
- 18 Q: Is she an engineer?
- 19 A: She is.
- 20 Q: Does she work with the City?
- 21 A: She works for CDM.
- 22 Q: Okay. But, but they contract her?
- 23 A: Yes.
- 24 Q: Okay. Was anybody from the City in on -- or
25 know about the easement?



1 Q: Okay.

2 A: Typically, I told the inspectors check in on
3 jobs every day, but there is no benefit for the
4 City if I'm sitting ---

5 Q: Okay.

6 A: --- watching a bulldozer or a truck or whatever
7 moved back and forth all day ---

8 Q: Uh-huh.

9 A: --- for eight hours.

10 Q: Why was someone from the City not there the
11 entire time the work was being done?

12 A: Because we don't generally occupy construction
13 sites for eight -- eight hours a day.

14 Q: Who was the City relying on to ensure that the
15 work was done within the boundaries of the
16 easement?

17 **MS. WOOTEN:** Object to the form.

18 **MR. GOTTSCHALL:** Object to the form.

19 Q: Well, let me just re-phrase it. Was anybody on
20 site to ensure that work was being done within
21 the boundaries of the easement?

22 A: Alan was on site and did note that it was
23 outside the 15 foot easement for the clearing.
24 Since that's a temporary operation -- that
25 sometimes happens on jobs especially in



1 overgrown terrain that happens.

2 Q: Is it your ---

3 A: --- 15 feet is not enough room that. That's
4 why we do the remediation and reconstruction at
5 the end after we finish our work.

6 Q: So is it your testimony today that you believe
7 it was acceptable to go outside the easement
8 during this work?

9 A: In certain physical conditions it's inevitable
10 that it will go outside the easements. It's a
11 small amount that's why we do the repair work.

12 Q: What legal authority would give the City to
13 operate outside of its easement in constructing
14 this road?

15 MR. HEMLEPP: Object to the form.

16 MS. WOOTEN: Object to the form.

17 MR. GOTSCHALL: Object to the form.

18 MR. BOINEAU: Object to the form.

19 A: I have no idea.

20 Q: Answer the question.

21 A: I have no idea. I don't know.

22 MS. WOOTEN: He just did.

23 Q: Is it common practice for the City to work
24 outside of its easements?

25 A: I wouldn't call it common, but it does happen.

