

92514

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

The Honorable Jean Hofer Toal, Acting Circuit Court Judge

Case No. 2017-CP-28-00831
Appellate Case No. 2019-001632

RECEIVED
MAR 24 2020
SC Court of Appeals

IN THE MATTER OF:
LEMUEL WHITAKER BOYKIN, II, deceased

Rigdon H. Boykin, as sole disinterested Co-Trustee of the Lemuel Whitaker Boykin, II Residuary Trusts A and B.....Appellant-Respondent

v.

Mary Deas Wortley, individually, as Co-Trustee of the Lemuel Whitaker Boykin, II Residuary Trusts A and B, Co-Trustee of the Lemuel Whitaker Boykin Marital Deduction Trusts A and B, and as Co-Personal Representative of the Estate of Alice S. Boykin; Alice B. Belger, individually, as Co-Trustee of the Lemuel Whitaker Boykin, II Residuary Trusts A and B, and as Co-Personal Representative of the Estate of Alice S. Boykin; Lemuel Whitaker Boykin, III; and May Cantey Boykin, of whom

Mary Deas Wortley and Alice B. Belger are..... Respondent-Appellants

RESPONDENT-APPELLANTS' MOTION TO STRIKE

Respondent-Appellants Mary Deas Wortley and Alice Belger (“Wortley and Belger”) hereby move to strike certain improper and irrelevant material from Appellant-Respondent Rigdon Boykin’s (“Boykin”) Designation of Matter for the Record on Appeal, the Record on Appeal itself, and from Boykin’s Initial Brief. The improper and irrelevant material relates to matters that were not presented to and ruled upon by the trial court. Instead, the matters referred to occurred either

after final judgment was issued in the circuit court action which gives rise to this appeal, or in a separate pending case in which the trial judge has not presided. The material is irrelevant to the appeal because it did not affect the decision below.

Specifically, Wortley and Belger move to strike the following items from the Designation of Matter and the Record on Appeal:

1. Rigdon's Motion for a Status Conference, which was filed in this case on December 17, 2019, more than three months after the circuit court action for this appeal was finally decided and closed on September 3, 2019; and
2. Rigdon's Motion to Dismiss filed on December 18, 2019 in *Holland, et al. v. Rigdon H. Boykin*, Case No. 2019- CP-28-01015, which pertains to a separate pending case in which the trial judge has not presided.

Wortley and Belger also move to strike any discussion of these matters and other post judgment events in Boykin's Initial Brief, which can be found at:

- Page 6, 3rd full paragraph through the end of Page 7;
- Page 9, last sentence of first full paragraph;
- Page 18, citation to Motion for Status Conference and all of footnote 4;
- Page 23, all of the final paragraph except the first sentence;
- Page 24, all of next to last paragraph except the first sentence;
- Page 26, first two paragraphs;
- Page 38, first full paragraph;
- Page 43, footnote 12.

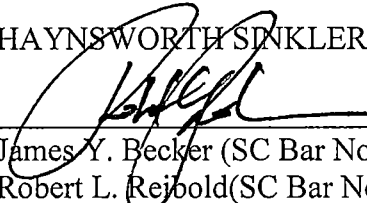
This motion is made pursuant to Rules 208, 209, and 210, SCACR, and is supported by the memorandum of law filed herewith.

Wortley and Belger also request an extension of time to respond to Boykin's Initial Brief. The Court's decision on this motion may affect the content of Boykin's Initial Brief, and, accordingly, the content of Wortley and Belger's response.

I certify that I consulted with opposing counsel before filing this motion, but that the parties were unable to resolve this matter.

Respectfully submitted,

HAYNSWORTH SINKLER BOYD, P.A.



James Y. Becker (SC Bar No. 64991)
Robert L. Reibold (SC Bar No. 9284)
Mary C. Eldridge (SC Bar No. 102698)
P.O. Box 11889
Columbia, South Carolina 29211-1889
(803) 779-3080
jbecker@hsblawfirm.com

Attorneys for Respondent-Appellants

March 23, 2020

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

The Honorable Jean Hoefler Toal, Acting Circuit Court Judge

C.A. No.: 2017-CP-28-00831
Appellate Case No. 2019-001632

RECEIVED
MAR 24 2020
SC Court of Appeals

IN THE MATTER OF:
LEMUEL WHITAKER BOYKIN, II, deceased

Rigdon H. Boykin, as sole disinterested Co-Trustee of the Lemuel
Whitaker Boykin, II Residuary Trusts A and B.....Appellant

v.

Mary Deas Wortley, individually, as Co-Trustee of the Lemuel
Whitaker Boykin, II Residuary Trusts A and B, Co-Trustee of
the Lemuel Whitaker Boykin Marital Deduction Trusts A and
B, and as Co-Personal Representative of the Estate of Alice S.
Boykin; **Alice B. Belger**, individually, as Co-Trustee of the
Lemuel Whitaker Boykin, II Residuary Trusts A and B, and
as Co-Personal Representative of the Estate of Alice S.
Boykin; **Lemuel Whitaker Boykin, III**; and **May Cantey Boykin**.....Respondents

PROOF OF SERVICE

I, the undersigned employee of Haynsworth Sinkler Boyd, P.A., do hereby certify that I have caused the foregoing to be served via U.S. mail, postage prepaid, *or by other delivery as indicated*, to all parties of record at the addresses shown below.

1. **Respondent-Appellants' Motion to Strike**
2. **Brief in Support of Motion to Strike**

Parties of Record

Wallace K. Lightsey, Esquire Wade S. Kolb, III Post Office Box 728 Greenville, SC 29602 <i>Attorneys for Appellant Rigdon H. Boykin</i>	William S. Tetterton Post Office Box 530 Camden , SC 29021
---	--

HAYNSWORTH SINKLER BOYD, P.A.

By: Reeve H. Ballew
Reeve H. Ballew

March 23, 2020
Columbia, South Carolina

**HAYNSWORTH
SINKLER BOYD**

HAYNSWORTH SINKLER BOYD, P.A.
1201 MAIN STREET, 22ND FLOOR
P.O. BOX 11889 (29211)
COLUMBIA, SOUTH CAROLINA 29201
MAIN 803.779.3080
FAX 803.765.1243
www.hsblawfirm.com

ROBERT L. REIBOLD
DIRECT 803.540.7782
rballew@hsblawfirm.com

March 23, 2020

The Hon. Jenny Abbot Kitchings
Clerk of Court, Court of Appeals
P.O. Box 11629
Columbia, SC 29201

Re: In the Matter of Lemuel Whitaker Boykin II
Civil Action No. 2017CP2800831
Appellate Case No. 2019-001632
HSB File No. 39944.0001

RECEIVED
MAR 24 2020
SC Court of Appeals

Dear Ms. Kitchings:

Enclosed for filing, please find the original and one (1) copy of the following:

1. Respondent-Appellants' Motion to Strike;
2. Brief in Support of Motion to Strike; and
3. Proof of Service

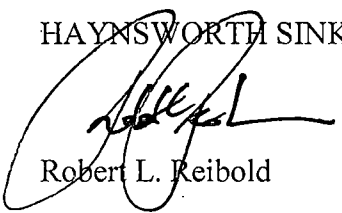
in the above-referenced matter, together with our Proof of Service of same. Also, enclosed is a firm check in the amount of \$50.00 for the filing fee. Once filed, please return a clocked copy to me in the enclosed self-addressed, stamped envelope.

If you have any questions, please give me a call.

Thank you for your assistance in this matter.

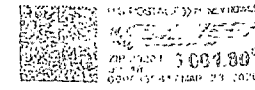
Sincerely,

HAYNSWORTH SINKLER BOYD, P.A.


Robert L. Reibold

**HAYNSWORTH
SINKLER BOYD**

Cc: Wallace Lightsey, Esq.
Wade S. Kolb, III, Esq.
William S. Tetterton, Esq.



HAYNSWORTH
SINKLER BOYD
P.O. BOX 11889
COLUMBIA, SOUTH CAROLINA 29211-1889

RECEIVED

MAR 24 2020

SC Court of Appeals

The Hon. Jenny Abbot Kitchens
Clerk of Court, Court of Appeals
P.O. Box 11629
Columbia, SC 29201

