

THE STATE OF SOUTH CAROLINA
In the Court of Appeals.

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Jul 28 2020

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

SC Court of Appeals

Alison Renee Lee, Circuit Court Judge

Appellate Case No. 2019-001609

Rachel Farley, as Trustee of the Louise Farley Revocable Trust Dated February 8, 2005;
Drummond B. Farley; Rachel R. Farley; Carol E. Farley; and Nancy E. Farley, Appellants,

v.

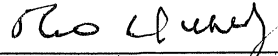
Church of the Harvest of Columbia, Inc., Respondent.

RESPONDENT'S MOTION TO SUPPLEMENT THE RECORD

Robert W. Dibble, Jr., SC Bar #1675
HARRELL, MARTIN & PEACE, P.A.
135 Columbia Avenue
Post Office Box 1000
Chapin, South Carolina 29036
Telephone: (803) 345-3353
ATTORNEYS FOR RESPONDENT

The Respondent moves, pursuant to Rule 212(b), SCACR, to supplement the Record on Appeal by adding (1) the Certificate of Service dated May 10, 2019 and (2) the Response to the May 20, 2019 Rule 59(e) Motion filed on May 23, 2020. A copy of each of those documents is attached as Exhibits A and B, respectively.

RESPECTFULLY SUBMITTED,



Robert W. Dibble, Jr., SC Bar #1675
Harrell, Martin & Peace, P.A.
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Telephone: (803) 345-3353
ATTORNEYS FOR RESPONDENT

July ²⁸____, 2020
Chapin, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	ELEVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON)	CASE NO. 2016-CP-32-00387
)	
Rachel Farley, as Trustee of The Louise)	
Farley Revocable Trust Dated February 8,)	
2005, Drummond B. Farley; Rachel R.)	
Farley; Carol E. Farley; Nancy E. Farley;)	
)	CERTIFICATE OF
Plaintiffs,)	SERVICE
)	
vs.)	
)	
The Church of the Harvest of Columbia,)	
Inc.,)	
)	
Defendant.)	
_____)	

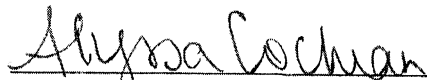
The undersigned hereby certifies that on May 10, 2019 she caused the filed Order on Summary Judgment, sent via United States Postal Service first class mail, with adequate postage prepaid to the parties listed below:

Drummond B. Farley
742 C. Avenue
West Columbia, SC 29169

Carol E. Farley
PO Box 1570
Johns Island, SC 29457

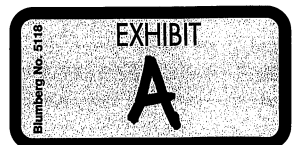
Nancy E. Farley
PO Box 1570
Johns Island, SC 29457

Mr. S. Jahue Moore
Moore Taylor Law Firm
PO Box 5709
West Columbia, SC 29171



Alyssa Cochran, Paralegal
HARRELL, MARTIN & PEACE, P.A.

Chapin, South Carolina



STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)
 Rachel Farley, as Trustee of the)
 Louise Farley Revocable Trust)
 Dated February 8, 2005; Drummond)
 B. Farley; Rachel R. Farley;)
 Carol E. Farley; Nancy E. Farley,)
)
 Plaintiffs,)
)
 v.)
)
)
)
 The Church of the Harvest of Columbia,)
 Inc.,)
)
 Defendant.)
)

IN THE COURT OF COMMON PLEAS
 ELEVENTH JUDICIAL CIRCUIT
 CASE NO. 2016-CP-32-00387

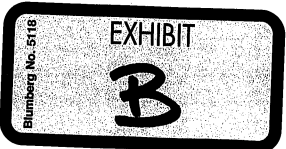
**RESPONSE OF THE DEFENDANT TO
 MOTION PURSUANT TO RULE 59(e)
 AND MOTION OF DEFENDANT
 PURSUANT TO RULE 60(a)**

The Defendant hereby responds to the motion filed on May 20, 2019 pursuant to Rule 59(e), SCRPC. The motion requests the entry of an Order altering or amending the Court’s Order of May 9, 2019 “so as to recognize the validity of the Plaintiff Trust’s Easement, that the Easement has been obstructed and that the Defendant must remove the obstructions.” Mot. p. 1. The motion to alter or amend should be denied.¹

A.

1. On page 9 of the Order the Court said “As a predicate for their case, the Plaintiffs assert that Mrs. Farley and that they now have an express easement. This Court agrees” Therefore, the Court has in fact recognized the validity of the Plaintiff Trust’s easement, and the Order need not be amended in that regard.

¹ The 59(e) motion was filed on behalf of only Rachel Farley. Mr. Moore signed the motion as “ATTORNEY FOR THE PLAINTIFF RACHEL FARLEY.” Ms. Farley does not have standing as an individual to speak for the Trust.



2. The Court on pages 7-9 of the Order discussed the encroachments in the context of negligence, trespass and nuisance. In doing so, the Court recognized the existence of the building and the parking lots constructed by the Defendant on the easement. Therefore, the Court has recognized that the easement has been obstructed by the Defendant, and the Order need not be amended in that regard.
3. On page 10 of the Order, the Court said: "It is the position of The Church that the causes of action related to the encroachments are forever barred, and this Court finds this position to be correct under the facts of this case." Therefore, the Court has held that the Defendant cannot now be required to remove the obstructions because of the expiration of the applicable limitation period. Thus, the Order need not be amended in that regard either.

B.

In reviewing the Order filed on May 9, 2019, Counsel for the Defendant noted three clerical errors for which he takes full responsibility. Therefore, pursuant to Rule 60(a), SCRCP, the Defendant moves to correct those errors as follows.

1. Changing the last word in Footnote 2 from "Defendants" to "parties."
2. Changing the reference in Footnote 7 from "See n.8, *infra.*" To "See n. 10, *infra.*"
3. Changing the reference in Footnote 14 from "See n.13, *infra.*" To "See n. 15, *infra.*"

Pursuant to Rule 60(a) clerical mistakes may be correct by the Court at any time on its own initiative or upon motion on any party. The errors are clearly clerical in nature and have no impact on holding of the Court.

Based on the foregoing, the Defendant respectfully submits that the 59(e) motion should be denied and the Rule 60(a) motion should be granted.

s/Robert W. Dibble, JR., SC Bar #1675

Robert W. Dibble, Jr.
Attorneys for the Defendant
Harrell, Martin & Peace, P.A.
Post Office Box 1000
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Telephone: (803) 345-3353
Facsimile: (803) 345-9171

May 23, 2019
Chapin, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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Jul 28 2020

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

SC Court of Appeals

Alison Renee Lee, Circuit Court Judge

Appellate Case No. 2019-001609

Rachel Farley, as Trustee of the Louise Farley Revocable Trust Dated February 8, 2005;
Drummond B. Farley; Rachel R. Farley; Carol E. Farley; and Nancy E. Farley, Appellants,

v.

Church of the Harvest of Columbia, Inc., Respondent.

PROOF OF SERVICE

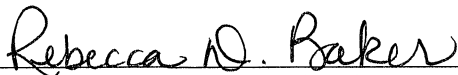
The undersigned hereby certifies that on July 28, 2020 she caused the *Respondent's*
Motion to Supplement the Record to be sent via United States Postal Service, first class mail,
with adequate postage prepaid, to the parties listed below:

S. Jahue Moore
William H. Edwards
Moore Taylor Law Firm
Post Office Box 5709
West Columbia, SC 29171

Drummond B. Farley
742 C. Avenue
West Columbia, SC 29169

Carol E. Farley
Post Office Box 1570
Johns Island, SC 29457

Nancy E. Farley
Post Office Box 1570
Johns Island, SC 29457


Rebecca D. Baker, Paralegal
Harrell, Martin & Peace, P.A.

Chapin, South Carolina
July 28, 2020

L.K. "Trey" Harrell, III
Jeremy C. Martin
M. Alan Peace **
Taylor A. Peace
Andrea "Andi" Cornelison
Erik T. Norton

Robert W. Dibble, Jr. *
William Jennings (Bill) Buchanan *
Donald W. Tyler *
Thomas B. Jackson, III *

*Of Counsel
**Certified Mediator/Arbitrator

July 28, 2020

VIA ELECTRONIC FILING

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

RECEIVED
Jul 28 2020
SC Court of Appeals

RE: Rachel Farley, as Trustee of the Louise Farley Revocable Trust Dated February 8, 2005; Drummond B. Farley; Carol E. Farley; and Nancy E. Farley v. Church of the Harvest of Columbia, Inc.
Appellate Case No. 2019-001609
Our File No. 3303.28245

Dear Madam Clerk:

Please find attached a copy of *Respondent's Motion to Supplement the Record and Proof of Service* for filing in the above-referenced matter. As instructed by Sierra Ritchie, Appeals Specialist I, I am submitting this Motion electronically and forwarding to the Court our check in the amount of \$50.00 in payment of the filing fee.

By copy of this letter and aforementioned pleadings, we are serving a copy upon all parties of record.

Thank you for your time and attention to this matter. If you need anything further, please do not hesitate to contact me.

Yours very truly,



Rebecca D. Baker
Paralegal to Robert W. Dibble, Jr.

Jenny Abbott Kitchings, Clerk of Court

July 28, 2020

Page 2 of 2

cc: S. Jahue Moore, Esquire
William H. Edwards, Esquire
Mr. Drummond B. Farley
Ms. Carol E. Farley
Ms. Nancy E. Farley