

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

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

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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.

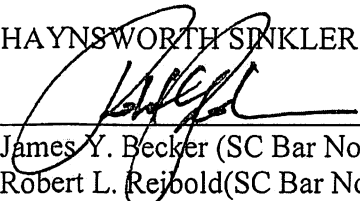
This motion is made pursuant to Rules 208, 209, and 210, SCACR, and is supported by the memorandum of law filed herewith.

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.



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