

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court Of Common Pleas

Larry B. Hyman, Jr., Circuit Court Judge

Case No: 2009-CP-22-01655
Appellant Case No. 2012-213634

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Richard A. Fisher, Platte B. Moring, Jr., Trustee of the Platte B. Moring, Jr. Living Trust dated March 13, 2001; Marianne Kochanski, and Jim H. Markley, III, Individually, and in a Representative Capacity on Behalf of All Persons Similarly Situated Who Own Units in Buildings C and D of the Shipyard Village Horizontal Property Regime; Robert A. Wright, Mary Beth C. Wright, H. Allen Wright, Joyce Y. Wright and Carolyn L. Wright; Carmen J. Savoca, Ann D. Savoca, William John Savoca and Donna S. Strom; James T. Hunter and Mary D. Hunter; Dwain C. Andrews; WWS, LLC, a South Carolina Limited Liability Company; Donald L. Henson and Sandra L. Henson; Allen M. Funk; Norman J. Rish and Mary T. Rish; Angela M. Markley; Walter C. Worsham and Carolyn W. Worsham; Enrico S. Piraino and Giusto Piraino; Otis T. Harrison and Rose C. Harrison; James E. Newman, Jr.; Brenda E. Fisher and Joseph R. Canning and Kathleen B. Canning; James D. Reynolds, Jr.; Fuller Family, LLC; Richard T. White and Rory L. White; Propst and Dawson, LLC; Litchfield Quarters, LLC, and Larry O. Snider and Paula D. Snider; William C. Hammond, Jr., Living Trust and the Shawn S. Hammond Living Trust; GAB IV, LLC, a Virginia Limited Liability Company; Robert C. McBride and Susan R. McBride, Trustees of the Robert C. McBride Family Trust u/d/t July 24, 2008, and Susan R. McBride and Robert C. McBride; Trustees of the Susan R. McBride Family Trust u/d/t July 24, 2008; Evelyn J. Valuska; Barbara W. Beymer; Montrose Associates, LLC; Harry L. Belk and Jan C. Belk; Dennis E. Barrett and Wilma J. Barrett; First Family Properties, Inc., Cynthia L. Jones, Sandra D. Huggins and Margaret S. Dover, Thomas Franklin Huggins, Frank S. Krouse and Barbara T. Krouse, Judith W. Mill, William Mill and Susan Mill, Gene R. Riley and Patricia C. Riley, Harold LeMaster and Patti LeMaster; Joseph P. Heaton and Frances H. Heaton; Robert N. Kelly; H. S. Keeter and Sandra C. Keeter; Brian R. Nisbet Trust Agreement dated November 16, 1998 and Mary M. Nisbet Trustee of the Mary M. Nisbet Trust Agreement dated November 16, 1998; Dorothy Jean Foster; Captains Quarters D-24 Association of Owners, Inc., Michael H. Sanders and Rebecca H. Sanders, Ruth Gray Wheliss, David B. Shivell and Nicki M.

Shivell, Debra B. Leeke, Joseph Alan Capobianco and Lara Serro, Sharon Gibson Daniel, Gary C. Andes and Andrea W. Andes, Jay Hendler and Laura Hendler, Joy P. McConnell, Charles W. Fortner, Judith C. Woodson, Warren W. Riggs and Charles G. Martin, Riggs Ventures, LLC, and SGS Beach Partners, LLC; Morgan I. Mann and Angela M. Mann; Michael Cameron Foster, Sr. and Laura Lee Foster; Captains Quarters Unit D-31 Association of Multiple Ownerships, Inc., Evelyn Gail Earnest, Francis G. Thomson and Arleen S. Thomson, Robert W. Dalton, Red Oak Limited Partnership, William R. McKeown and Margaret A. McKeown, Norman K. Moon and Barbara W. Moon, David T. McGill and Carol G. McGill, Rick L. Bledsoe and Susan H. Bledsoe, Geoffrey A. Wienke and Pamela L. Wienke, A. Donald Ross, III and Nancy Kay Ross, Dennis J. Straw and Roxanne B. Straw, and Resort Investments of Litchfield, LLC; Georgia M. Pruitt and Howard M. Pruitt, Jr., Jean T. Blaylock; William C. Covington, Jr. and Donna C. Covington; Litchfield Captain's Quarters, LLC; James A. Schubert and Laraine C. Schubert; Daniel P. Duvall and Mary Lynn Duvall; Victor A. Medina and Melinda Leigh Medina; Judy P. Hamer, Boyce F. Miller and Carole L. Miller, Raymond A. Shingler and Louise O. Shingler, Paul Larry Barnette and Carol Jane Barnette, James R. Walker and Erika T. Walker, Kathy W. Underwood, Andrew J. Wingo, Jr. and Susan A. Wingo, Melanie S. Franklin, Lois E. Cooley, Trustee of the Lois E. Cooley Living Trust, B. Lee Smith and Margaret H. Smith, Jason A. Underwood, and Camilla J. Wilson; Stewart South, LLC; Quarter South, LLC; Steven H. Frame and Kay B. Frame, . . . Respondents,

V.

Shipyards Village Council of Co-Owners, Inc. Appellant.

Shipyards Village Council of Co-Owners, Inc. Third-Party Plaintiff,

V.

Cincinnati Insurance Company, Travelers Insurance Company, Companion Property & Casualty Insurance Company, Philadelphia Insurance Company, Zurich American Insurance Company, American Guarantee and Liability Ins. Co., St. Paul Fire and Marine Insurance Company, and Illinois National Insurance Company, Third-Party Defendants.

**MOTION FOR EXTENSION OF TIME TO FILE
INITIAL BRIEF AND DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD OF APPEAL**

TO: THE COURT AND COUNSEL FOR ALL PARTIES:

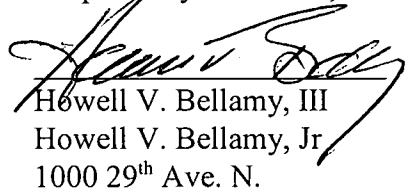
PLEASE TAKE NOTICE that, pursuant to Rule 263, SCACR, Respondents Richard A. Fisher, Platte B. Moring, Jr., Marianne Kochanski, and Jim H. Markley, III, et al, by and through their undersigned counsel, Howell V. Bellamy, Jr. and Howell V. Bellamy, III, hereby respectfully move this Court for an Order extending the time for filing their Initial Brief and Designation of Matter to be included in the record of Appeal. Appellant's Initial Brief was mailed on **February 28, 2013**, and received by Respondents' Counsel on **March 4, 2013**. The deadline for submission of the Respondents' Initial Brief and Designation of Matter to be Included in the Record of Appeal is **April 1, 2013**. The Respondents seek an extension of Sixty (60) days, making the deadline for filing their Initial Brief and Designation of Matter to be Included in the Record of Appeal **May 30, 2013**. The basis for this motion is as follows:

This extension for time is requested for the following reasons. First, Respondents' counsel's has a heavy work load regarding trials, depositions, and other hearings scheduled during the months of April and May which will require extensive preparation and time. Second, Respondents' counsel has been summoned for jury service in Circuit Court in Georgetown County during the week of March 18, 2013. And, finally, in responding to Appellant's Initial Brief, Counsel will need additional time to research and address the Appellant's contention that it has no duty to inquire in which this legal issue may not have been raised at the initial and subsequent motion hearings on May 2, 2012 and November 15, 2012, respectively, or even in Appellant's Rule 59(e)SCRCF Motion to

reconsider. And, in conjunction with above, Counsel will need time to review and copy one or more of the One hundred Seventeen (117)¹ exhibits (located in the clerk's office of the Georgetown County Courthouse) that were made a part of the record on appeal at motion hearing on May 22, 2012 by the consent of the parties. A copy of the evidence record, marked as **Exhibit "A"** is attached hereto and made part of this motion. In, further, support of this motion, we have contacted Appellant's counsel, Carlyle R. Cromer, and he does not oppose our request for an extension of time until **May 30, 2013**.

WHEREFORE, Respondents respectfully move this Court for an Order extending the time for filing their Initial Brief and Designation of Matter to be Included in the Record of Appeal until **May 30, 2013**. The Respondents respectfully request that all other deadlines be held in abeyance pending the Court's approval of this extension.

Respectfully submitted,



Howell V. Bellamy, III
Howell V. Bellamy, Jr.
1000 29th Ave. N.
Myrtle Beach, SC 29577
843-448-2400 Telephone
843-448-3022 Facsimile
hbellamyiii@bellamylaw.com
Attorneys for the Respondents

Myrtle Beach, S. C. 29577
March 18, 2013

¹Some of the deposition of party experts were placed into the record multiple times.

EXHIBIT "A"

Richard Fisher, Platte B. Moring, Jr. et al vs Shipyard Village Council of Co-Owners, Inc.
Civil Action No.: 2009-CP-22-00152, Civil Action No.: 2009-CP-22-01655

PARTIAL SUMMARY JUDGMENT MOTION HEARING'S EXHIBITS PLACED INTO THE RECORD FOR APPEAL BY CONSENT OF THE PARTIES:

1. Plaintiffs' Evidence – **Number 1** – Affidavit of Steven J. Geiger, Professional Engineer, in Opposition to the Shipyard Village's Motion for Partial Summary Judgment against eighteen plaintiffs based on the Statute of Limitations defense;
2. Plaintiffs' Evidence – **Number 2** – Affidavit in Opposition to Defendant's Motion for Partial Summary Judgment based on Statute of Limitations Defense;
3. Plaintiffs' Evidence – **Number 3** – Affidavit in Opposition to Defendant's Motion for Partial Summary Judgment based upon the Statute of Limitations Defense;
4. Plaintiff's Evidence – **Number 4** – Affidavit in Opposition to the Defendant's Motion for Partial Summary Judgment based upon the Statute of Limitations Defense;
5. Plaintiffs' Evidence – **Number 5** – Affidavit in Opposition to Defendant's Motion for Partial Summary Judgment based on the Statute of Limitations Defense ;
6. Plaintiffs' Evidence – **Number 6** – Affidavit in Opposition to Defendant's Motion for Partial Summary Judgment based on the Statute of Limitations Defense;
7. Plaintiff's Evidence – **Number 7** – Affidavit in Opposition to Defendant's Motion for Partial Summary Judgment based on the Statute of Limitations Defense;
8. Plaintiff's Evidence – **Number 8** – Affidavit in Opposition to Defendant's Motion for Partial Summary Judgment based on the Statute of Limitations Defense;
9. Plaintiffs' Evidence – **Number 9** – Affidavit in Opposition to Defendant's Motion for Partial Summary Judgment based on the Statute of Limitations Defense;
10. Plaintiffs' Evidence – **Number 10** – Affidavit in Opposition to Defendant's Motion for Partial Summary Judgment based on the Statute of Limitations Defense;
11. Plaintiffs' Evidence – **Number 11** – Affidavit in Opposition to Defendant's Motion for Partial Summary Judgment based on the Statute of Limitations Defense;

12. Plaintiffs' Evidence – **Number 12** – Affidavit in Opposition to Defendant's Motion for Partial Summary Judgment based on the Statute of Limitations Defense;
13. Plaintiffs' Evidence – **Number 13** – Affidavit in Opposition to Defendant's Motion for Partial Summary Judgment based on the Statute of Limitations Defense;
14. Plaintiffs' Evidence – **Number 14** – Report of ABS, Applied Building Science, Inc., specifically Larry Elkins;
15. Plaintiffs' Evidence – **Number 15** – Henderson Under Pressure quote, and it is job number 562, dated 10, 28, 1998, the total amount quoted is \$300,000;
16. Plaintiffs' Evidence – **Number 16** – Plaintiffs' reply to Defendant's Fourth Amended Answer and Affirmative Defense;
17. Plaintiffs' Evidence – **Number 17** – Affidavit in Opposition to Defendant's Motion for Partial Summary Judgment based on the Statute of Limitations Defense;
18. Plaintiffs' Evidence – **Number 18** – Shipyard Village Council of Co-Owners 17th Annual members Meeting dated April 10, 1999;
19. Plaintiffs' Evidence – **Number 19** – Shipyard Village Horizontal Property Regime Master Deed and Bylaws;
20. Plaintiff's Evidence – **Number 20** – Affidavit of Steve Geiger, Professional Engineer, dated Wednesday, July 20, 2011 (1st part);
21. Plaintiffs' Evidence – **Number 21** – Affidavit of Steve Geiger, Professional Engineer, dated Wednesday, July 20, 2011 (2nd part);
22. Plaintiffs' Evidence – **Number 22** – Deposition of Derek Hodgin, dated July 25, 2011;
23. Plaintiffs' Evidence – **Number 23** – Deposition of Vickie Gallagher taken on April 26, 2012:
 - a. Plaintiffs' Exhibit – Number 1– Letter to Vicki Gallagher , dated April 3, 2012 with Notice of Taking Deposition;
 - b. Plaintiffs' Exhibit – Number 2– Twentieth Annual members' Meeting, Minutes, April 27, 2002;
 - c. Plaintiffs' Exhibit – Number 3 – Defendant Shipyard Village Council of Co-Owners, Inc.'s Answer to Plaintiffs' Fourth Amended Complaint;

- d. Plaintiffs' Exhibit – Number 4– Regular Meeting of the Board of Directors, Minutes, April 14, 2006;
 - e. Plaintiffs' Exhibit – Number 5– Twenty Fourth Annual Members' Meeting Minutes, April 15, 2006;
 - f. Plaintiffs' Exhibit – Number 6– Letter to Shipyard Village Owners from Kellie Diehl, dated April 24, 2008, regarding amendment to Master Deed;
 - g. Plaintiffs' Exhibit – Number 7– Letter to Shipyard Village Homeowners from Board of Directors, dated April 30, 2008, regarding community Update on Issues Discussed at the April 19, 2008 Annual Members' Meeting;
 - h. Plaintiffs' Exhibit – Number 8– Special Members' Meeting Agenda, August 1, 2009;
 - i. Plaintiffs' Exhibit – Number 9– Letter to Shipyard Village Unit Owner from K. A. Diehl, dated January 26, 2010'
 - j. Plaintiffs' Exhibit – Number 10– Master Deed of Shipyard Village Horizontal Property Regime, filed in Georgetown County July 12, 1982, Book 201, Page 952;
 - k. Plaintiffs' Exhibit – Number 11– Twenty-Seventh Annual Members' Meeting Minutes, April 4, 2009;
 - l. Plaintiffs' Exhibit – Number 12– Letter to Vicki Gallagher from Stephen PO. Robinson, dated July 30, 2009, regarding Structural and Facade Repairs for Shipyard Village, Buildings A and B;
24. Plaintiffs' Evidence– **Number 24** – Exhibits of the Deposition of Dr. Jack Clark Eblin taken on Wednesday, April 18, 2012:
- a. Plaintiffs' Exhibit – Number 1– Notice of Taking Deposition;
 - b. Plaintiffs' Exhibit – Number 2– Amendment to the Master Deed of Shipyard Village Horizontal Property Regime, filed in the Register of Deeds Office in Georgetown, SC, Book 235, Page 5;
 - c. Plaintiffs' Exhibit – Number 3– Letter to Rory Shellenburger of Waccamaw management Company from Bob Gallagher of Procon, dated April 9, 1993;
 - d. Plaintiffs' Exhibit – Number 4– E-mail to Leon from Jack regarding out of pocket expenses;
 - e. Plaintiff's Exhibit – Number 5– E-mail to Ms. Fletcher from Jack C. Eblin, dated January 25, 2008 regarding water intrusion;
 - f. Plaintiffs' Exhibit – Number 6– Letter to Shipyard Village Owners from Shipyard Board of Directors, dated September 26, 2007 regarding water problems with recent rains;
25. Plaintiffs' Evidence– **Number 25**– Deposition of Dr. Jack Clark Eblin taken on

Wednesday, April 18, 2012:

26. Plaintiffs' Evidence – **Number 26** – Deposition of Doris R. Bray, dated Monday, April 23, 2012:
- a. Plaintiffs' Exhibit – Number 1– Notice of Deposition;
 - b. Plaintiffs' Exhibit – Number 2– Master Deed and Bylaws;
 - c. Plaintiffs' Exhibit – Number 3– Letter from Larry Elkin June 30, 2011;
 - d. Plaintiffs' Exhibit – Number 4– Letter from Bob Gallagher October 11, 2007;
 - e. Plaintiffs' Exhibit – Number 5– Sutton-Kennerly Report January 13, 2009;
 - f. Plaintiffs' Exhibit – Number 6– Corrosion Condition Assessment January 17, 2008;
 - g. Plaintiffs' Exhibit – Number 7– Structural Report November 7, 2008;
 - h. Plaintiffs' Exhibit – Number 8– Larry Elkin's Report June 30, 2011;
 - i. Plaintiffs' Exhibit – Number 9– Miller Dodson Replacement Reserve Report;
 - j. Plaintiffs' Exhibit – Number 10– Meeting Minutes April 19, 2008;
 - k. Plaintiffs' Exhibit – Number 11– Letter from Shipyard Board of Directors, September 26, 2007;
 - l. Plaintiffs' Exhibit – Number 12– CD with photos of Unit B-27;
 - m. Plaintiffs' Exhibit – Number 13– Photos of Unit B-27;
 - n. Plaintiffs' Exhibit – Number 14– Responses to Interrogatories;
 - o. Plaintiffs' Exhibit – Number 15– Meeting Minutes April 4, 2009;
27. Plaintiffs' Evidence – **Number 27** – Deposition of J. Lawrence Elkin, P.E., dated August 10, 2011:
- a. Plaintiffs' Exhibit – Number 1– Subpoena June 10, 2011;
 - b. Plaintiffs' Exhibit– Number 2– Curriculum Vitae of Lawrence Elkin, P.E.;
 - c. Plaintiffs' Exhibit – Number 3– ABS Report;
 - d. Plaintiffs' Exhibit – Number 4– Shipyard Village Reserve Funding Analysis;
 - e. Plaintiffs' Exhibit – Number 5– Handwritten notes;
 - f. Plaintiffs' Exhibit – Number 6– Photographs;
 - g. Plaintiffs' Exhibit – Number 7– Procon's Original Proposal and Contract and Photocopy of Procon's Proposal and Contract with words "Bob Gallagher's Affidavit in upper left hand corner, April 12, 1990;
 - h. Plaintiffs' Exhibit – Number 8– Procon's original Proposal and

- Contract April 12, 1990;
- i. Plaintiffs' Exhibit – Number 9– Shipyard Village Council of co-Owners, Inc., Special Meeting of the Board of Directors, September 10, 1991;
 - j. Plaintiffs' Exhibit – Number 10– Letter to Waccamaw Management Company from Bob Gallagher, April 9, 1993;
 - k. Plaintiffs' Exhibit – Number 11– Letter to Waccamaw Management Company from Procon Waterproofing, Inc. March 9, 1994.
28. Plaintiffs' Evidence – **Number 28** – Deposition of Gary Curtis Bradham dated Wednesday, May 3, 2012:
- a. Plaintiffs' Evidence – Number 1 – Letter to David Mills from Gary Bradham, dated April 19, 2012, with Bradham's Report
 - b. Plaintiffs' Evidence – Number 2 – Letter from Shipyard Board of Directors, dated September 26, 2007;
 - c. Plaintiffs' Evidence – Number 3 – E-Mail from Kellie Diehl, dated September 18, 2007;
 - d. Plaintiffs' Evidence – Number 4 – E-Mail from Leon Jennings, dated March 28, 2003;
 - e. Plaintiffs' Evidence – Number 5 – Meeting Minutes dated February 18, 2006;
 - f. Plaintiffs' Evidence – Number 6 – Letter from Susan Pendergrass, dated August 5, 1999;
 - g. Plaintiffs' Evidence – Number 7 – Notice of Proxy Meeting, dated June 15, 2001;
 - h. Plaintiffs' Evidence – Number 8 – Photos of Unit B-54;
 - i. Plaintiff's Evidence – Number 9 – Meeting Minutes, dated September 27, 2002;
 - j. Plaintiffs' Evidence – Number 10 – Exploratory Field Survey, dated February 14, 2009;
 - k. Plaintiffs' Evidence – Number 11 – Letter from Leon Jennings dated August 7, 2002;
 - l. Plaintiffs' Evidence – Number 12 – Letter from Howell Bellamy, III with attached Discovery Responses;
 - m. Plaintiffs' Evidence – Number 13 – Letter from Don and Linda Johnston dated June 12, 2008;
 - n. Plaintiffs' Evidence – Number 14 – Quote from Henderson's Under Pressure, October 28, 1998;
 - o. Plaintiffs' Evidence – Number 15 – Letter from Leon Jennings, April 8, 2003;
29. Plaintiffs' Evidence – **Number 29** – Deposition of Jim C. Poag dated Wednesday,

April 18, 2012:

- a. Plaintiffs' Exhibit – Number 1– Notice of Taking Deposition;
 - b. Plaintiffs' Exhibit – Number 2– Letter to Shipyard Village unit Owners from Board of Directors, dated January 26, 2010;
 - c. Plaintiffs' Exhibit – Number 3– 80 Videos, photographs of water damage and water intrusion around the sliding glass doors and windows;
 - d. Plaintiffs' Exhibit – Number 4– SKA opinion of Construction Costs and August 1, 2009 Special Members' Meeting Agenda;
30. Plaintiffs' Evidence – **Number 30** – Deposition of Robert M. Postiglione, dated Monday, April 23, 2012:
- a. Plaintiffs' Exhibit – Number 1– Notice of Deposition;
 - b. Plaintiffs' Exhibit – Number 2– Still shot Photos from Video of unit.
31. Plaintiffs' Evidence – **Number 31** does not exist.
32. Plaintiffs' Evidence – **Number 32** – Deposition of Marie A. Aker, dated April 25, 2012:
- a. Plaintiffs' Exhibit – Number 1– Notice of Taking Deposition;
 - b. Plaintiffs' Exhibit – Number 2– Twenty-Sixth Annual Members' Meeting Minutes, April 19, 2008;
 - c. Plaintiffs' Exhibit – Number 3– Letter to Eddie Stokes from Bob Gallagher, dated October 22, 2007, regarding Preliminary Concrete Inspection;
 - d. Plaintiffs' Exhibit – Number 4– McGee Consulting Associates, Inc., Building Investigations;
 - e. Plaintiffs' Exhibit – Number 5– Owner Membership Pre-Meeting Information, March 31, 2008.
33. Plaintiffs' Evidence – **Number 33** – Deposition of Dr. Leon Jennings, dated Friday, April 20, 2012:
- a. Plaintiffs' Exhibit – Number 1– Affidavit of C. Leon Jennings, Jr.;
 - b. Plaintiffs' Exhibit – Number 2– Letter to Rory Shellenburger of Waccamaw Management Company from Bob Gallagher of Procon, dated April 9, 1993, regarding the need of a structural engineer;
 - c. Plaintiffs' Exhibit – Number 3– Organizational Meeting of the Board of Directors, dated June 15, 1999;
 - d. Plaintiff's Exhibit – Number 4– Letter to Shipyard Village A and B

- Owners from Susan Pendergrass, Property Manager of Waccamaw Management, regarding waterproofing the balcony;
- e. Plaintiffs' Exhibit – Number 5– Letter to Robert Moran from Kellie Diehl, Managing Agent, dated October 31, 2002, regarding Master Deed stating windows are responsibility of the owner;
 - f. Plaintiffs' Exhibit – Number 6– Letter to Owner of B21 from Kellie Diehl, dated June 24, 2003, regarding windows with broken seals or fogged or cracked;
 - g. Plaintiffs' Exhibit – Number 7– Letter to Owner of A57 from Kellie Diehl, dated June 24, 2003, regarding windows with broken seals or fogged or cracked;
 - h. Plaintiffs' Exhibit – Number 8– Letter to Co-Owners from Leon Jennings, dated April 8, 2003, regarding potential window problems in Buildings A and B;
 - i. Plaintiffs' Exhibit – Number 9– Letter to Owner of B24 from Kellie Diehl, dated June 24, 2003, regarding windows with broken seals or fogged or cracked;
 - j. Plaintiffs' Exhibit – Number 10– Master Deed, Article XVI, Miscellaneous, Book 201, Page 922;
 - k. Plaintiffs' Exhibit – Number 11– Master Deed, Article VII, Miscellaneous, Book 201, Page 901;
 - l. Plaintiff's Exhibit – Number 12– Letter to Shipyard Village Homeowners from Leon Jennings, dated October 6, 2005, regarding settlement amount;
 - m. Plaintiff's Exhibit – Number 13– Master Deed, Article VII, System of Administration of the Regime, Book 201, Page 900;
 - n. Plaintiffs' Exhibit – Number 14– Master Deed, Article II, Section 2.2, Authorities and Duties, Book 201, Page 933;
 - o. Plaintiffs' Exhibit – Number 15– Master Deed, Article V, Sections 5.5 and 5.6, Book 201, Page 897 and Article VI, Section 6.1, Book 201, Page 898;
 - p. Plaintiffs' Exhibit – Number 16– Regular Meeting of the Board of Directors Minutes, dated March 14, 2006;
 - q. Plaintiff's Exhibit – Number 17– Regular Meeting of the Board of Directors Minutes, dated March 16, 2007;
 - r. Plaintiffs' Exhibit – Number 18– Regular Meeting of the Board of Directors Minutes, dated July 17, 2007;
 - s. Plaintiffs' Exhibit – Number 19– Letter to Eddie Stokes from Bob Gallagher, dated October 22, 2007, regarding Preliminary Concrete Inspection;
 - t. Plaintiffs' Exhibit – Number 20 – Shipyard Village Council of Co-Owners, Inc., Board of Directors Report, April 8, 2000;
 - u. Plaintiffs' Exhibit – Number 21– Master Deed, Article X, Section

- 10.1, Procedure, Book 201, Page 947 and Article I, Section 1.1 Membership, Book 201, Page 929;
- v. Plaintiffs' Exhibit – Number 22– E-mail to Co-directors from Leon Jennings, dated April 27, 2008, regarding need for stucco repair, painting and waterproofing of A and B;
 - w. Plaintiffs' Exhibit – Number 23– Special Meeting of the Board of Directors, March 11, 1994;
 - x. Plaintiffs' Exhibit – Number 24 – Forty Videos of Building A and Forty Videos of Building B.
 - y. Plaintiffs' Exhibit – Number 25 – Photographs of unit;
 - z. Plaintiffs' Exhibit – Number 26 – Master Deed, Article IV, Section 4.2, Legal Description and Section 4.3, Maintenance and Repair, Book 291, Page 894 and Article V, Ownership of Common Elements, Book 201, Page 895;
 - aa. Plaintiffs' Exhibit – Number 27 – Master Deed, Article VI, Section 6.7, Records and Article VII, Section 7.1, System of Administration of the Regime, Book 201, Page 900;
 - bb. Plaintiffs' Exhibit – Number 28– Letter to Co-Owners from Leon Jennings, regarding Master Deed stating that windows, panes and frames are responsibility of the owner;
 - cc. Plaintiffs' Exhibit – Number 29– Letter to Thomas Crocker from Bob Gallagher with photos, dated March 9, 1994;
 - dd. Plaintiffs' Exhibit – Number 30– Letter to Ken Schneider from Edward Porcher of Stantec consulting, dated July 25, 2007;
 - ee. Plaintiffs' Exhibit – Number 31– McGee Consulting Associates, Inc., Building Investigations, Captain's Quarters C and D.
34. Plaintiffs' Evidence – **Number 34** – Master Deed of Shipyard Village HOA;
35. Plaintiffs' Evidence – **Number 35** – Shipyard Village Meeting Minutes from 1982 to 1993;
36. Plaintiffs' Evidence – **Number 36** – Shipyard Village Meeting Minutes from 2006 to 2010;
37. Plaintiffs' Evidence – **Number 37** – Shipyard Village Meeting Minutes from 1994 to 2005;
38. Plaintiffs' Evidence – Photographs **numbered 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, and 73**;
39. Plaintiffs' Evidence – **Number 74** – Photographs of Unit A-46;

40. Plaintiffs' Evidence – **Number 75** – Photographs of Unit A-47;
41. Plaintiffs' Evidence – Photographs **numbered 76, 77, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, 93, 94, and 95;**
42. Plaintiffs' Evidence – **Number 96** – SKA Consulting to Building Industry since 1959;
43. Plaintiffs' Evidence – **Number 97** – SKA Report;
44. Plaintiffs' Evidence – **Number 98** – Exploratory Field Survey Testing Report by SKA;
45. Plaintiffs' Evidence – **Number 99** – Steve Geiger-- Bates Stamp 005682–005708;
46. Defendant's Evidence – **Number 1** – Deposition of J. Lawrence Elkins, P. E. , dated August 10, 2011;
47. Defendant's Evidence – **Number 2** – Deposition of Gary Curtis Braham, dated May 3, 2012;
48. Defendant's Evidence – **Number 3**– Deposition of Kenneth Schneider, Jr. AIA, dated July 26, 2011:
 - a. Defendant's Exhibit – Number 1– Kenneth G. Schneider, Jr., AIA's Resume;
 - b. Defendant's Exhibit – Number 2 – Project Log;
 - c. Defendant's Exhibit – Number 3 – Letter to Shipyard Village Council of Co-Owners from Schneider and Associates, dated September 8, 2006;
 - d. Defendant's Exhibit – Number 4 – Shipyard Deck Inspection List;
 - e. Defendant's Exhibit – Number 5 – Scope of Work for Exterior, Floor/Ceiling and Tube Slabs for Shipyard Village, Buildings A & B;
 - f. Defendant's Exhibit – Number 6– Letter from Schneider and Associates to Kellie Diehl and Richard Bennett, dated February 7, 2007;
 - g. Defendant's Exhibit – Number 7 – Comparative Analysis of Architectural/Engineering Fees.
49. Defendant's Evidence – **Number 4** – Deposition of Robert Gallagher;
 - a. Defendant's Exhibit – Number 1 – Robert Allen Gallagher's Affidavit with Attachments;

- b. Defendant's Exhibit – Number 2 – Larry Elkin's Report.
50. Defendant's Evidence – **Number 5** – Exhibits to the Deposition of Derrick A. Hodgin, dated July 25, 2011:
- a. Defendant's Exhibit – Number 1 – Curriculum vitae with attachments;
 - b. Defendant's Exhibit – Number 2 – Derek A. Hodgin, P.E.'s Report;
 - c. Defendant's Exhibit – Number 3 – Letter referenced in Derek A. Hodgin, P.E.'s Report dated June 12, 2009;
 - d. Defendant's Exhibit – Number 4 – Letter from Derek A. Hodgin, P.E. to Bellamy Law Firm, dated June 30, 2009;
 - e. Defendant's Exhibit – Number 5 – Other Relevant Experience tabbed in Derek A. Hodgin, P.E.'s Report;
 - f. Defendant's Exhibit – Number 6 – Affidavit of Derek A. Hodgin, P.E.;
 - g. Defendant's Exhibit – Number 7 – Shipyard Village Board of Directors' Meeting Minutes, July 12, 1999.
51. Defendant's Evidence – **Number 6** – Deposition of Michael R. Parades, dated April 24, 2012;
- Plaintiffs' Exhibits:
- a. Plaintiffs' Exhibit – Number 1 – Shipyard Village Window Problems;
 - b. Plaintiffs' Exhibit – Number 2 – E-mail from Kellie Diehl dated September 18, 2007;
 - c. Plaintiffs' Exhibit – Number 3 – Urgent Message and Notice of Proxy Meeting, dated June 15, 2001;
 - d. Plaintiffs' Exhibit – Number 4 – Shipyard Village Informational Meeting, dated February 18, 2006;
 - e. Plaintiffs' Exhibit – Number 5 – Letter from Shipyard Village, dated January 26, 2010;
52. Defendant's Evidence – **Number 7** – Deposition of Derrick A. Hodgin, dated July 25, 2011;
- a. Defendant's Exhibit – Number 1 – Curriculum vitae with attachments;
 - b. Defendant's Exhibit – Number 2 – Derek A. Hodgin, P.E.'s Report;
 - c. Defendant's Exhibit – Number 3 – Letter referenced in Derek A. Hodgin, P.E.'s Report dated June 12, 2009;
 - d. Defendant's Exhibit – Number 4 – Letter from Derek A. Hodgin, P.E.

- e. to Bellamy Law Firm, dated June 30, 2009;
 - e. Defendant's Exhibit – Number 5 – Other Relevant Experience tabbed in Derek A. Hodgins, P.E.'s Report;
 - f. Defendant's Exhibit – Number 6 – Affidavit of Derek A. Hodgins, P.E.;
 - g. Defendant's Exhibit – Number 7 – Shipyard Village Board of Directors' Meeting Minutes, July 12, 1999.
52. Defendant's Evidence – **Number 8**– Exhibits to the Deposition of Steve Geiger, Volume II, dated July 20, 2011:
- a. Defendant's Exhibit – Number 1– Curriculum Vitae of Stephen J. Geiger, P.E.
 - b. Defendant's Exhibit – Number 2– Proposal for Shipyard Village dated January 25, 2010;
 - c. Defendant's Exhibit – Number 3– Proposal for Shipyard Village, dated February 16, 2010;
 - d. Defendant's Exhibit – Number 4– Litigation Support and Continuation Agreement for Shipyard Village;
 - e. Defendant's Exhibit – Number 5– Litigation Support and Continuation Agreement No. 1 for Shipyard Village, December 13, 2010;
 - f. Defendant's Exhibit – Number 6– Report issued by ECS, dated April 25, 2011;
 - g. Defendant's Exhibit – Number 7– Letter to Mr. Bobby Warner from Procon and Associates, Inc. Dated October 2, 1998;
 - h. Defendant's Exhibit – Number 8– Letter to Shipyard Board of Directors from Ben Morrow, dated April 14, 2005;
 - i. Defendant's Exhibit – Number 9– Assessment Allocation Summary;
 - j. Defendant's Exhibit – Number 10– Exhibit 9 printed 237 with cell formulas.
53. Defendant's Evidence – **Number 9**– Exhibits to the Deposition of Steve Geiger, Volume I, dated July 20, 2011:
54. Defendant's Evidence – **Number 10** – Deposition of Rand Wilson, III, dated April 19, 2012;
55. Defendant's Evidence – **Numbered 11** – Deposition of James D. Reynolds dated April 19, 2012;
56. Defendant's Evidence – **Numbered 12** – Deposition of Roy R. Oates dated April 19, 2012;

57. Defendant's Evidence – **Numbered 13** – Deposition of Robert Brian Nisbet dated April 26, 2012:

- a. Defendant's Exhibit – Number 1– Deed to Unit D-21;
- b. Defendant's Exhibit – Number 2– Letter from Shipyard Village Unity Committee dated April 10, 1999;
- c. Defendant's Exhibit – Number 3– Meeting Minutes April 19, 2003;
- d. Defendant's Exhibit – Number 4 – Meeting Minutes March 4, 2005;
- e. Defendant's Exhibit – Number 5– Meeting Minutes April 16, 2005;
- f. Defendant's Exhibit – Number 6– Meeting Minutes January 20, 2006;
- g. Defendant's Exhibit – Number 7– Meeting Minutes June 17, 2005;
- h. Defendant's Exhibit – Number 8– Meeting Minutes (Deponent's original) June 17, 2005;
- i. Defendant's Exhibit – Number 9– Meeting Minutes October 14, 2005;
- j. Defendant's Exhibit – Number 10– E-mail from Leon Jennings August 15, 2005;
- k. Defendant's Exhibit – Number 11– Meeting Minutes February 17, 2006;
- l. Defendant's Exhibit – Number 12– Meeting Minutes February 18, 2006;
- m. Defendant's Exhibit – Number 13– Meeting Minutes March 14, 2006;
- n. Defendant's Exhibit – Number 14– Meeting Minutes April 14, 2006;
- o. Defendant's Exhibit – Number 15– Meeting Minutes April 15, 2006;
- p. Defendant's Exhibit – Number 16– Meeting Minutes June 2, 2006;
- q. Defendant's Exhibit – Number 17– Meeting Minutes September 8, 2006;
- r. Defendant's Exhibit – Number 18– Amendment to the Master Deed;
- s. Defendant's Exhibit – Number 19 – Driver's License;
- t. Defendant's Exhibit – Number 20– Letter from Ken Schneider February 7, 2007;
- u. Defendant's Exhibit – Number 21– Handwritten Notes;
- v. Defendant's Exhibit – Number 22– List of Unit Owners;
- w. Defendant's Exhibit – Number 23– Members' Meeting Notice March 24, 2004.

58. Defendant's Evidence – **Number 14** – Deposition of Richard (Dick) Fisher, dated July 21, 2011;

59. Defendant's Evidence – **Number 15** – Deposition of Platte B. Moring, Jr., dated July 18, 2011;

60. Defendant's Evidence – **Number 16** – Deposition of Walter Kochanski, M. D., dated July 18, 2011;
61. Defendant's Evidence – **Number 17** – Deposition of James H. Markley, III, dated July 21, 2011;
62. Defendant's Evidence – **Number 18** – Memo to the Board of Directors dated April 2, 1999;
63. Defendant's Evidence – **Numbered 19** – Letters regarding the Moring Unit B-28;
64. Defendant's Evidence – **Number 20** – SKA Memo dated July 30, 2009;
65. Defendant's Evidence – **Number 21** – Letter from M.E.C. Engineering Services to Dr. Mr. Eblin, dated January 19, 2008;
66. Defendant's Evidence – **Number 22** – Letter to Homeowners dated September 26, 2007.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

6789

APPEAL FROM GEORGETOWN COUNTY
Court Of Common Pleas

Larry B. Hyman, Jr., Circuit Court Judge

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MAR 19 2013

Case No: 2009-CP-22-01655 **SC Court of Appeals**
Appellant Case No. 2012-213634

Richard A. Fisher, Platte B. Moring, Jr., Trustee of the Platte B. Moring, Jr. Living Trust dated March 13, 2001; Marianne Kochanski, and Jim H. Markley, III, Individually, and in a Representative Capacity on Behalf of All Persons Similarly Situated Who Own Units in Buildings C and D of the Shipyard Village Horizontal Property Regime; Robert A. Wright, Mary Beth C. Wright, H. Allen Wright, Joyce Y. Wright and Carolyn L. Wright; Carmen J. Savoca, Ann D. Savoca, William John Savoca and Donna S. Strom; James T. Hunter and Mary D. Hunter; Dwain C. Andrews; WWS, LLC, a South Carolina Limited Liability Company; Donald L. Henson and Sandra L. Henson; Allen M. Funk; Norman J. Rish and Mary T. Rish; Angela M. Markley; Walter C. Worsham and Carolyn W. Worsham; Enrico S. Piraino and Giusto Piraino; Otis T. Harrison and Rose C. Harrison; James E. Newman, Jr.; Brenda E. Fisher and Joseph R. Canning and Kathleen B. Canning; James D. Reynolds, Jr.; Fuller Family, LLC; Richard T. White and Rory L. White; Propst and Dawson, LLC; Litchfield Quarters, LLC, and Larry O. Snider and Paula D. Snider; William C. Hammond, Jr., Living Trust and the Shawn S. Hammond Living Trust; GAB IV, LLC, a Virginia Limited Liability Company; Robert C. McBride and Susan R. McBride, Trustees of the Robert C. McBride Family Trust u/d/t July 24, 2008, and Susan R. McBride and Robert C. McBride, Trustees of the Susan R. McBride Family Trust u/d/t July 24, 2008; Evelyn J. Valuska; Barbara W. Beymer; Montrose Associates, LLC; Harry L. Belk and Jan C. Belk; Dennis E. Barrett and Wilma J. Barrett; First Family Properties, Inc., Cynthia L. Jones, Sandra D. Huggins and Margaret S. Dover, Thomas Franklin Huggins, Frank S. Krouse and Barbara T. Krouse, Judith W. Mill, William Mill and Susan Mill, Gene R. Riley and Patricia C. Riley, Harold LeMaster and Patti LeMaster; Joseph P. Heaton and Frances H. Heaton; Robert N. Kelly; H. S. Keeter and Sandra C. Keeter; Brian R. Nisbet Trust Agreement dated November 16, 1998 and Mary M. Nisbet Trustee of the Mary M. Nisbet Trust Agreement dated November 16, 1998;

Dorothy Jean Foster; Captains Quarters D-24 Association of Owners, Inc., Michael H. Sanders and Rebecca H. Sanders, Ruth Gray Wheliss, David B. Shivell and Nicki M. Shivell, Debra B. Leeke, Joseph Alan Capobianco and Lara Serro, Sharon Gibson Daniel, Gary C. Andes and Andrea W. Andes, Jay Hendler and Laura Hendler, Joy P. McConnell, Charles W. Fortner, Judith C. Woodson, Warren W. Riggs and Charles G. Martin, Riggs Ventures, LLC, and SGS Beach Partners, LLC; Morgan I. Mann and Angela M. Mann; Michael Cameron Foster, Sr. and Laura Lee Foster; Captains Quarters Unit D-31 Association of Multiple Ownerships, Inc., Evelyn Gail Earnest, Francis G. Thomson and Arleen S. Thomson, Robert W. Dalton, Red Oak Limited Partnership, William R. McKeown and Margaret A. McKeown, Norman K. Moon and Barbara W. Moon, David T. McGill and Carol G. McGill, Rick L. Bledsoe and Susan H. Bledsoe, Geoffrey A. Wienke and Pamela L. Wienke, A. Donald Ross, III and Nancy Kay Ross, Dennis J. Straw and Roxanne B. Straw, and Resort Investments of Litchfield, LLC; Georgia M. Pruitt and Howard M. Pruitt, Jr., Jean T. Blaylock; William C. Covington, Jr. and Donna C. Covington; Litchfield Captain's Quarters, LLC; James A. Schubert and Laraine C. Schubert; Daniel P. Duvall and Mary Lynn Duvall; Victor A. Medina and Melinda Leigh Medina; Judy P. Hamer, Boyce F. Miller and Carole L. Miller, Raymond A. Shingler and Louise O. Shingler, Paul Larry Barnette and Carol Jane Barnette, James R. Walker and Erika T. Walker, Kathy W. Underwood, Andrew J. Wingo, Jr. and Susan A. Wingo, Melanie S. Franklin, Lois E. Cooley, Trustee of the Lois E. Cooley Living Trust, B. Lee Smith and Margaret H. Smith, Jason A. Underwood, and Camilla J. Wilson; Stewart South, LLC; Quarter South, LLC; Steven H. Frame and Kay B. Frame, . . . Respondents,

V.

Shipyard Village Council of Co-Owners, Inc. Appellant.

Shipyard Village Council of Co-Owners, Inc. Third-Party Plaintiff,

V.

Cincinnati Insurance Company, Travelers Insurance Company, Companion Property & Casualty Insurance Company, Philadelphia Insurance Company, Zurich American Insurance Company, American Guarantee and Liability Ins. Co., St. Paul Fire and Marine Insurance Company, and Illinois National Insurance Company, Third-Party Defendants.

PROOF OF SERVICE

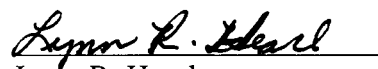
The undersigned hereby certifies that s/he has this day served the Respondents' Motion for Extension of Time to File Initial Brief and Designation of Matter to be Included in the Record on Appeal by mailing a copy of the same by Certified Mail Return Receipt Requested, postage pre-paid:

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211

Mr. Carlyle Richardson Cromer
Turner Padget Graham & Laney, PA
P. O. Box 2116
Myrtle Beach, SC 29578

Mr. R. Wayne Byrd
Turner Padget Graham & Laney, PA
P. O. Box 2116
Myrtle Beach, SC 29578

Myrtle Beach, S. C. 29577
March 18, 2013


Lynn R. Hearl

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SC Court of Appeals

**BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P. A.**

HOWELL V. BELLAMY, JR.
JOHN K. RUTENBERG (1939-2012)
JOHN E. COPELAND
CLAUDE M. EPPS, JR. ****
DAVID R. GRAVELY*
EDWARD B. BOWERS, JR. *****
BRADLEY D. KING
M. EDWIN HINDS, JR.
JILL F. GRIFFITH
DAVID B. MILLER****

ATTORNEYS AT LAW
1000 29TH AVENUE NORTH
P.O. Box 357
MYRTLE BEACH, SOUTH CAROLINA 29578
TELEPHONE (843) 448-2400
TELECOPIER (843) 448-3022

C. WINFIELD JOHNSON, III
DOUGLAS M. ZAYICEK
MARTIN C. DAWSEY*****
ROBERT S. SHELTON****
HOWELL V. BELLAMY, III
ASHLEY P. MORRISON
GEORGE W. REDMAN, III**
BENJAMIN A. BAROODY**
PHILLIP H. ALBERGOTTI** *****
HAYES K. STANTON**
JAMES E. HILL, III** *****
KIERSTEN M. GORDON*****

*FELLOW OF THE AMERICAN ACADEMY OF MATRIMONIAL LAWYERS
**ALSO MEMBER OF NORTH CAROLINA BAR
***CERTIFIED MEDIATOR
****RETIRED
*****LLM TAXATION
*****MEMBER OF NC BAR ONLY

Writer's Direct Line: 843-282-5393
E-Mail: Lhearl@BellamyLaw.com

March 18, 2013

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211

Re: Richard A. Fisher vs Shipyard Village Council of Co-Owners, Inc.
Appellate Case No. 2012-213634

Dear Ms. Kitchings:

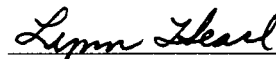
Enclosed for filing, please find the original and seven copies of the Respondent's Motion for Extension of Time to File Initial Brief and Designation of Matter to be Included in the Record on Appeal. I am also enclosing our check No. 054462, dated March 14, 2013, for \$25.00 made payable to the Court of Appeals for filing of this matter along with a self-addressed envelope for your convenience.

We are serving a copy of this letter on counsel for the Appellants. I appreciate your assistance in this matter and should you have any questions or concerns, please give us a call at 843-282-5393.

With kindest regards, I remain

Sincerely,

BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.


Lynn Hearl

Assistant to Howell V. Bellamy, III

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SC Court of Appeals

March 18, 2013

Page 2

/lh

cc: Carlyle R. Cromer, Esquire
Wayne Byrd, Esquire