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Oct 19 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Capers Barr, III, Special Referee

Case No. 2021-000185

Judith A. Brown, as Personal Representative for the Estate of Mildred C. Knight,
and Norman R. "Bobby" Knight, III,..... Appellants,

v.

Chloe Knight Tonney,..... Respondent.

MOTION TO COMPEL

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v.

Chloe Knight Tonney,.. Respondent.

MOTION TO COMPEL

COMES NOW, Respondent Chloe Knight Tonney (“Tonney”), by and through the undersigned counsel, and hereby moves the Court for an order to compel the Appellants to supplement the Record on Appeal in order for it to correctly reflect documents requested in the Respondents’ Matters Designation in accordance with S.C. App. Ct. Rule 210 (c) which provides that “The Record on Appeal shall include all matter designated to be included by any party...” In support of the motion the Respondent shows the following to the court:

1. The Respondent properly served the Appellant with the Respondent’s Designation of Matter including twenty-two (22) documents which are relevant and necessary to the adjudication of the matters in the Appeal. The Respondent’s Designation of Matter is attached hereto as Exhibit A.

2. The Appellate served the Respondent with the Record on Appeal including only thirteen (13) of the documents included in the Respondent's Designation of Matter. Nine (9) documents are not included within the Record of Appeal and were deleted without the agreement of the Respondent.
3. The Respondent requests that at the minimum the following documents be including in the Record on Appeal as they are pertinent to the to the case; Answer of Defendant to Complaint (9/9/2005), Plaintiffs' Motion to Leave to File First Amended Complaint (3/4/2008), Order Granting Plaintiffs' Motion to Restore (4/17/2008), and Answer of Defendant to Complaint (7/29/2019).
4. The excluded documents include two Answers, number 2 and 9 on Exhibit A and other documents, numbers 5 and 6 on Exhibit A. The Answers correspond with two Complaints which were included in the Record on Appeal. The excluded documents are necessary to the issues on appeal and were requested in the Designation of Matters as such.
5. The Respondent can consent to the exclusion of the other five (5) relevant documents not listed as a show of good faith to the Appellant. The other sis documents in order as they appear on Exhibit A are numbers 3, 4, 7, 8, and 14.
6. The Appellant has failed to comply with S.C. App. R. 210(g) which states "Appellant or his counsel shall certify that the Record on Appeal contains all materials proposed to be included by any of the parties and not any other materials."
7. Appellant has failed to comply with the Rule 210(g) through certifying all documents proposed were included and then not including nine (9) documents proposed by the Respondent and at least three (3) documents proposed by the Appellant.

8. Respondent provided Appellant with notice of the discrepancies with the Record on Appeal and the Appellant failed to respond.

WHEREFORE, Tonney respectfully prays this Honorable Court order the Appellant to supplement the Record on Appeal in order to reflect the Respondents' Matter Designation as required by S.C. App. R. 210 and awarding Tonney such further relief as it may deem just and proper including but not limited to fees and costs in the preparation of this Motion.

Respectfully submitted,

Law Offices of Charles S. Altman, LLC.

/s/ Charles S. Altman
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October 18, 2021

Attached: Exhibit A: Respondents' Designation Matter

EXHIBIT A

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Aug 11 2021

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Capers G. Barr, III, Special Referee

Appellate Case No. 2021-000185
Case No. 2019-CP-10-03042

Judith A. Brown, as Personal Representative
for the Estate of Mildred C. Knight,
and Norman R. "Bobby" Knight, III, Appellants,
v.
Chloe Knight Tonney, Respondent.

DESIGNATION OF MATTER

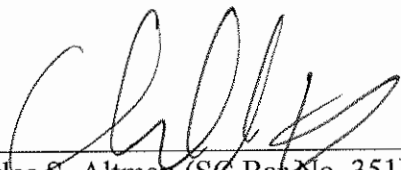
COMES NOW Respondent and proposes the following as the Record on Appeal:

1. Complaint (6/24/2005)
2. Answer of Defendant to Complaint (9/9/2005)
3. Consent Order Striking Case Pursuant to Rule 40(j) (11/15/2006)
4. Plaintiffs' Motion to Restore (1/18/2008)
5. Plaintiffs' Motion for Leave to File First Amended Complaint (3/4/2008)
6. Order Granting Plaintiffs' Motion to Restore (4/17/2008)
7. Order Dismissing Case for Lack of Prosecution (8/4/2009)
8. Complaint (6/7/2019)
9. Answer of Defendant to Complaint (7/29/2019)
10. Order Restoring 2008-CP-10-02537 (10/1/2019)
11. Motion to Amend Complaint (7/16/2020)
12. Proposed Amended Complaint (2019)
13. Order Appointing Special Referee (7/22/2020)
14. Order Consolidating Actions (7/23/2020)
15. Defendant's Memorandum in Opposition to Plaintiffs' Motion to Amend the Complaint with Exhibits A-D (24 pages) (8/12/2020)
16. Transcript of Hearing on Motion to Amend the Complaint before Capers Barr (8/26/2020)

17. Defendant's Second Memorandum in Opposition to Plaintiffs' Motion to Amend the Complaint with Exhibits A-D (69 pages)
18. Order Denying Motion to Amend (10/16/2020)
19. Plaintiffs' Motion to Alter/Amend Order (SCRCP 59(e)) (10/26/2020)
20. Plaintiffs' Memorandum in Support of Amending Complaint (11/23/2020)
21. Defendant's Motion in Opposition to Plaintiffs' Motion to Alter or Amend Order (11/23/2020)
22. Transcript of Hearing on Motion to Alter or Amend Order before Capers Barr (11/24/2020)
23. Order Denying Motion to Alter or Amend Order (1/14/2021)

I certify that this Designation of Matter contains no matter which is irrelevant to this Appeal.

August 11, 2021



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