



# The South Carolina Court of Appeals

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May 24, 2022

The Honorable Paul B. Wickensimer  
Courthouse  
305 E North St  
Greenville SC 29601-2121

## **REMITTITUR**

Re: Frontage Road Associates, Inc. v. Elephant, Inc.  
Lower Court Case No. 2017CP2302918  
Appellate Case No. 2019-001735

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen*

CLERK

Enclosure

cc: Robert L. Widener, Esquire  
Paul D. Harrill, Esquire  
Oscar W. Bannister, Esquire

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

Frontage Road Associates, Inc., also known as Frontage  
Road, Inc., Respondent,

v.

Elephant, Inc. and Gregory Gaines, also known as  
Kenwood Gaines, Appellants.

Appellate Case No. 2019-001735

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Appeal From Greenville County  
Robin B. Stilwell, Circuit Court Judge

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Unpublished Opinion No. 2022-UP-181  
Submitted April 14, 2022 – Filed April 27, 2022

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**AFFIRMED**

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Robert L. Widener and Paul D. Harrill, both of Burr &  
Forman LLP, of Columbia, for Appellants.

Oscar W. Bannister, of Bannister, Wyatt & Stalvey, LLC,  
of Greenville, for Respondent.

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**PER CURIAM:** Elephant, Inc. and Gregory Gains (collectively, Tenants) appeal the circuit court's denial of their motion to transfer the case to the nonjury docket. On appeal, Tenants contend Frontage Road Associates, Inc. (Landlord) waived its

right to a jury trial, and the circuit court abused its discretion by denying the motion to transfer because Landlord had not demanded a jury trial. We affirm pursuant to Rule 220(b), SCACR.

Rule 38(b), SCRCP, provides a "party may demand a trial by jury of any issue triable of right by a jury by serving upon the other parties a demand." The intent of this rule is to provide notice to other parties. We interpret Rule 38(b) as it applies to electronic filing to allow a party to demand a jury trial by choosing the jury demand option during e-filing of the complaint.

At the time Landlord initiated this case within the Electronic Filing System, it selected "Yes" to the jury demand option. This selection had the effect of placing the case on the jury roster and designating the "File Type" on the case view screen as "Jury," which was visible to any e-filing participant in the case. Thus, we agree with the circuit court that Tenant was "not caught unaware of the pendency of this case as a jury trial" and therefore find the circuit court did not err by denying Tenants' motion to transfer.

**AFFIRMED.**<sup>1</sup>

**GEATHERS and HILL, JJ., and LOCKEMY, A.J., concur.**

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<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.