

IN THE COURT OF SPECIAL APPEALS OF MARYLAND

75-80 PROPERTIES, LLC, *et al.*,

Appellants

v.

RALE, INC., *et al.*

Appellees.

Sept. Tem 2017

CSA-REG-1689-2017

**OPPOSITION OF APPELLEE RALE AND ALL INDIVIDUAL APPELLEES (“RALE APPELLEES”) TO APPELLANTS’ MOTION TO STRIKE BRIEFS FILED BY APPELLEE COUNTY TO THE EXTENT THEY SEEK TO STRIKE THOSE PORTIONS ADOPTED BY RALE APPELLEES PURSUANT TO MARYLAND RULE 8-503(f) OR, IN THE ALTERNATIVE, MOTION FOR LEAVE TO FILE REVISED RESPONSE.**

Appellee RALE, Inc. and all individual Appellees (collectively “RALE Appellees”) file this opposition to the Motion to Strike Briefs and Appearance of Frederick County filed by Appellants 75-80 Properties, L.L.C. and Payne Investments, L.L.C. (collectively “75-80 Appellants”) to the extent the Motion to Strike could result in striking those portions of Appellee County’s Briefs adopted by the RALE Appellees or, in the alternative pursuant to Maryland Rule 1-204, RALE Appellees move for an extension of time to file an amended Response, and in support thereof states as follows:<sup>1</sup>

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<sup>1</sup> The RALE Appellants concur with the arguments put forth in Appellee County’s Opposition to the Motion to Dismiss the County as a party and to strike Appellee County’s Briefs, and the RALE Appellees submit that the 75-80 Appellants’ Motion should be denied in its entirety. If the Court denies 75-80 Appellants’ Motion, then this Opposition would become moot.

1. The RALE Appellees filed a Joint Response to the Brief filed by the 75-80 Appellants and to the Brief filed by Appellant C. Paul Smith.
2. In their Brief, which was a Joint Response to the Briefs filed by all Appellants, the RALE Appellees adopted the Statement of Facts and Arguments put forth in the Briefs filed by Appellee County. RALE Appellees' Br. at fn. 2.<sup>2</sup>
3. The RALE Appellees also adopted in their Brief the Standard of Review as set forth in Appellee County's Brief in response to the Brief filed by C. Paul Smith. RALE Appellees' Br. at 8.
4. The RALE Appellants adopted these portions of Appellee County's Briefs as permitted under Maryland Rule 8-503(f) which states: "In a case involving more than one appellant or appellee, any appellant or appellee may adopt by reference any part of the brief of another."
5. The benefits of this rule are obvious. Derived from Federal Rule 28, it is "a sensible attempt to eliminate needless repetition of arguments." 16AA Fed. Prac. & Proc. Juris §. 3974.5 (4<sup>th</sup> ed).
6. The RALE Appellants therefore request this Court not to strike the briefs filed by the County in this matter with respect to those portions adopted by the RALE Appellants.
7. In the alternative, should the Court grant the motion to strike the County's brief without recognizing the RALE Appellants' adoption of portions of

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<sup>2</sup> The RALE Appellees inadvertently referenced the County as an Appellant, not an Appellee, a clear misnomer.

those Briefs, the RALE Appellants move for an extension of time to file an amended brief pursuant to Maryland Rule 8-502 (b), which reads, in pertinent part: “(b) Extension of Time. The time for filing a brief may be extended by..... (2) order of the appellate court entered on its own initiative or on motion filed pursuant to Rule 1-204.”

8. Failure to allow the RALE Appellees to adopt, or to independently assert in a revised brief the arguments that they were allowed to adopt under Rule 8-503 would be highly prejudicial to their interests and would be manifestly unjust.

WHEREFORE, for the foregoing reasons, Appellees move this Court to grant the relief requested herein, and such other and further relief as this Court deems necessary and proper. The RALE Appellees concurrently submit proposed orders.

Dated: July 16, 2018

Respectfully submitted,

/s/ Michele Rosenfeld

Michele Rosenfeld  
The Law Office of Michele Rosenfeld LLC  
1 Research Court, Suite 450  
Rockville MD 20850  
[rosenfeldlaw@mail.com](mailto:rosenfeldlaw@mail.com)  
301-204-0913

*ATTORNEY FOR APPELLEE RALE AND ALL INDIVIDUAL APPELLEES*



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 16th day of July, 2018, a copy of the foregoing Motion was served upon all counsel of record via electronic filing and that on the 17<sup>th</sup> day of July two (2) copies will be sent via first-class mail to:

C. Gregory Abney  
One Church Street, Suite 910  
Rockville, MD 20850  
(301) 850-2990  
[greabney@abneyatlaw.com](mailto:greabney@abneyatlaw.com)

*Attorney for Appellant C. Paul Smith*

Deborah J. Israel, Esq.  
Paul A. Kaplan, Esq.  
Louis J. Rouleau, Esq.  
Ana L. Jara, Esq.  
Womble Bond Dickinson (US) LLP  
1200 19<sup>th</sup> St. NW, Suite 500  
Washington, D.C. 20036  
(202) 857-4466  
[deborah.israel@wbd-us.com](mailto:deborah.israel@wbd-us.com)  
[paul.kaplan@wbd-us.com](mailto:paul.kaplan@wbd-us.com)  
[louis.rouleau@wbd-us.com](mailto:louis.rouleau@wbd-us.com)  
[ana.jara@wbd-us.com](mailto:ana.jara@wbd-us.com)

*Attorneys for Appellants 75-80 Properties, L.L.C.  
and Payne Investments, LLC*

KURT J. FISCHER  
CHRISTINE E. WHITE  
  
VENABLE LLP  
210 W. PENNSYLVANIA AVENUE  
SUITE 500  
BALTIMORE, MARYLAND 21204  
410.494.6353 *telephone*  
410.821.0147 *facsimile*  
[kjfischer@venable.com](mailto:kjfischer@venable.com)  
[cewhite@venable.com](mailto:cewhite@venable.com)

JOHN S. MATHIAS  
COUNTY ATTORNEY  
  
KATHY L. MITCHELL  
ASSISTANT COUNTY ATTORNEY  
  
12 E. CHURCH STREET  
FREDERICK, MARYLAND 21701  
301.600.6054 *telephone*  
[kmitchell2@frederickcountymd.gov](mailto:kmitchell2@frederickcountymd.gov)

*ATTORNEYS FOR APPELLEE, FREDERICK COUNTY, MARYLAND*

\_\_\_\_\_/s/ Michele Rosenfeld  
Michele Rosenfeld

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**[PROPOSED] ORDER DENYING APPELLANTS' MOTION TO STRIKE APPELLEE COUNTY'S BRIEFS TO THE EXTENT THEY ARE ADOPTED BY THE RALE APPELLEES PURSUANT TO MARYLAND RULE 8-503(f).**

Having considered the Motion to Strike Appellee County's Briefs and all opposition thereto, it is this \_\_\_\_\_ day of \_\_\_\_\_, 2018:

ORDERED, that Appellants' Motion is DENIED and it is further

ORDERED, that the Brief filed by Appellee RALE and all individual Appellees will be recognized as adopting the referenced portions of the County Briefs identified in therein.

\_\_\_\_\_  
Judge, Court of Special Appeals

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**[PROPOSED] ORDER GRANTING APPELLEE RALE AND ALL INDIVIDUAL APPELLEES LEAVE TO REFILE THEIR RESPONSE TO APPELLANTS' BRIEFS.**

Having considered the Motion for for an extension of time to file an amended brief or briefs responding to the briefs filed by all Appellants pursuant to Maryland Rule 8-502(b), and any opposition thereto, it is this \_\_\_\_\_ day of \_\_\_\_\_, 2018 :

ORDERED, that Appellees' Motion is GRANTED and it is further

ORDERED, that Appellee RALE and all individual Appellees have 30 days from issuance of this Order to refile an amended brief or briefs responding to the briefs filed by all Appellants, and that Appellants will have \_\_\_\_\_ days thereafter to file their Reply, if any.

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Judge, Court of Special Appeals