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Oct 10 2022
SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

The Honorable Marvin H. Dukes, III
Beaufort County
Trial Court Case No. 2020-CP-07-0231

APPELLATE CASE NO. 2022-000277

Georgia Harrison, Barbara Harrison,
Joyce Ellen Harrison, William S. Harrison III,
Stanley Roberts, and
Diana Mendheim, Individually and As Attorney In Fact,

Respondents,

vs.

Stephanie Lorraine Kirkland, Gary Lamont Kirkland,
Kieta Nicole White, and Cheryl Kirkland,

Appellants.

**RESPONDENTS' RETURN TO APPELLANTS' EX PARTE: MOTION FOR ORDER
FOR IMMEDIATE STAY AND SUPERSEDES [SIC] BOND**

INTRODUCTION

Currently pending before this Court is the Appellants' Ex Parte: Motion For Order For Immediate Stay And Supersedes [sic] Bond filed on October 5, 2022 and again on October 6, 2022. The Motion should be denied because it fails to comply with the South Carolina Appellate

Court Rules in myriad ways and thereby makes it impossible for the Respondents to properly reply.

However, if this Court decides to review the substance of the Motion, it should be denied or only granted upon the posting of a supersedeas bond in the amount of at least \$9,750,000.00.

PROCEDURAL DEFICIENCIES

Appellants, who are the Defendants at the Circuit Court, originally filed this Motion electronically on October 5, 2022, along with seven exhibits. See the “as filed” version of the Motion attached as Exhibit A to this Return. Appellants then filed the Motion itself again on October 6, 2022. See the second “as filed” version of the Motion attached as Exhibit B to this Return. Neither of the two filed versions of the Motion comply with the strict requirements of SCACR 241, neither provide the Court with any substantive basis to consider the Motion, and both sought to deny the Respondents, who are the Plaintiffs at the Circuit Court, the ability to substantively reply to the Motion.

Rule 241 SCARC sets forth in detail the requirements for properly petitioning this Court to impose a supersedeas of matters decided in a lower court that are not subject to the “Automatic Stay” provisions of Rule 241.¹ This Court’s Order of June 23, 2022 held that Judge Dukes’ Orders were not automatically stayed because they are Orders “directing the sale or delivery of possession of real property....”

Rule 241 requires that an appellant who elects to petition this Court for an Order imposing a supersedeas of matters decided in the lower court “must file a written petition verified by the client.” In addition to the petition and verification, the moving party must

¹ This Court by Order dated June 23, 2022, denied the Appellants’ earlier Motion for Stay, and by Order dated August 17, 2022, denied the Appellants’ Motion for Rehearing on that Motion to Stay and Order.

contemporaneously file a certified copy of the order, judgment, decree, or decision of the lower court or administrative tribunal and a copy of the notice of appeal with its proof of service. See Rule 241(d)(3). The verified petition shall contain:

(A) the factual background necessary for an understanding of the petition. If the facts are subject to dispute, the petition shall be supported by affidavits or other sworn statements;

(B) the grounds for the petition, and legal arguments with supporting points and authority;

(C) a showing that an application for this relief was made to the lower court or administrative tribunal, and was unjustifiably denied or that the relief granted failed to afford the relief which the petitioner requested. A certified copy of the lower court's or administrative tribunal's ruling must be included. If no application was made to the lower court or administrative tribunal, then the petition shall state the extraordinary circumstances which made it impracticable to make such an application.

See Rule 241(d)(4).

The pending Motion fails to meet any of the cited requirements of Rule 241 in that it is not a verified petition, it does not contain any affidavits or other sworn statements addressing the many facts that the Respondents contest, and it contains no clear argument as to the grounds for the petition nor any legal arguments with supporting points and authority. In addition, the pending Motion does not have certain of the exhibits attached as claimed, including the alleged "Exhibit 1" relating to "a hastily arranged conference meeting on September 22, 2022" nor the alleged "Exhibit 2," a transcript of the hearing before Judge Dukes of September 22, 2022. (There are, however, for reasons unknown to the Respondents, two copies of a transcript from the September 15, 2022 hearing attached to the Motion.)

Further, because the Appellants' filing of this Motion has resulted in Judge Dukes' notice to the parties that he will not sign the proposed Order reducing to writing his verbal ruling from the September 22, 2022 hearing in which he denied the Appellants' Motion for a Supersedeas

and granted the Respondents' Amended Motion for Issuance of a Master's Deed, there is no written Order upon which the Appellants can claim their lower court Motion for a Stay was unjustifiably denied.²

The Appellants' pending Motion fails to comply with numerous procedural provisions of the SCACR as set forth above, and thus should be denied. Vaughn v. Morgan, 31 S.C. 602, 9 S.E. 743 (1889).

However, if the Court finds that the pending Motion is appropriately before the Court for substantive consideration, the Respondents reply to the Motion as follows:

FACTUAL BACKGROUND

This is an action filed by the Plaintiffs to quiet title filed under S.C. Code Annot. Section 15-67-10 *et seq.* and to Partition the land by sale, pursuant to S.C. Code Annot. Section 15-61-10 *et seq.* The Summons and Complaint were filed on November 24, 2020, and the Complaint advised the Court and the Defendants in November of 2020, of a pending contract that had been entered into by the Plaintiffs to sell the property at issue to Rotunda Land & Development Group, LLC ("Rotunda") for \$9,100,000.00, which the Plaintiffs believed to be a fair and equitable price for the property. See the Affidavit of Andre Johnny White (the "White Affidavit") filed in support of the Respondents' Return to the Appellants' original Motion for Stay filed on March 28, 2022, and Exhibits A and B thereto.

The property at issue is a tract of approximately 26.462 acres located on the north end of Hilton Head Island in Beaufort County (the "Property"), which has been through two previous

² See the email from Judge Dukes to all parties, a copy of which was filed with this Court by Appellants' counsel on October 6, 2022.

quiet title actions. Pursuant to South Carolina Rule of Civil Procedure 71(e), because the suit included a partition action, the Circuit Court was empowered to determine the title and interests in the real property of the several parties to the action.

In response to the Complaint, Defendants Stephanie Lorraine Kirkland, Gary Lamont Kirkland, Keita Nicole White and Cheryl Kirkland, filed an Answer on January 7, 2021. See Exhibit C to the White Affidavit. The case was then referred to the Beaufort County Master in Equity, Judge Marvin H. Dukes III, by consent. See Exhibit D to the White Affidavit.

On May 21, 2021, the Plaintiffs and the Defendants presented a joint Consent Order to the Court evidencing a written agreement between all parties that the Property is owned in indivision by the Plaintiffs, the represented Co-Owners, and the Defendants, and that Consent Order provided a detailed “Exhibit A” setting forth the mutually-agreed upon undivided interest percentages of each party. Judge Dukes signed and filed the Consent Order on May 21, 2021. See Exhibit E to the White Affidavit. At that time, the Plaintiffs owned an undivided 99.192707 percent interest in the Property and the Defendants owned an undivided 0.807293 percent interest in the Property.

Once the quiet title portion of the case had been resolved by the May 21, 2021 Consent Order and all owners of the Property specifically identified by percentage ownership, the parties and counsel moved forward under the Pinckney Act (S.C. Code Annot. Section 15-61-310, *et seq.*) to determine the Fair Market Value of the 26.462 acres, and on September 15, 2021, the Court entered its Order pursuant to S.C. Code Annot. Section 15-61-360(B), establishing the Fair Market Value of the 26.462 acres at Nine Million, One Hundred Thousand (\$9,100,000.00) Dollars. See Exhibit F to the White Affidavit.

Due to the continuing delays brought about by the extended litigation, the Plaintiffs successfully negotiated with the Rotunda principals to extend the closing date on the contract several times, and then on October 19, 2021, the Plaintiffs convinced the Rotunda principals to raise their proposed purchase price from the original \$9,100,000.00 to \$9,750,000.00 — an increase of \$650,000.00 over the Court-established (and mutually agreed upon) Fair Market Valuation of the Property. See Exhibit G to the White Affidavit.

The Plaintiffs continued to attempt to move the case forward, and on October 20, 2021, following another status conference, the Court filed an Order realigning certain parties at the Defendants' counsel's request (with the consent of the Plaintiffs), and pursuant to the Pinckney Act, allocated to the Defendants the "right to buy" interests of the co-tenant Plaintiffs pursuant to S.C. Code Annot. Section 15-61-370(D)(2), based upon their respective existing fractional undivided ownership interests in the Property. By that Order, the Defendants were given until 5:00 p.m. on December 22, 2021 to pay to the Clerk of Court their apportioned prices to buy out the Plaintiffs' interests under the Pinckney Act. Further, the October 20, 2021 Order provided that if the Defendants failed to timely pay their apportioned amounts into the Court, "then the property that is subject to this action shall be partitioned by sale at a purchase price of not less than \$9,100,000.00, and that the Plaintiffs shall be authorized to enter into, or ratify, a contract of sale for not less than such price, and including such other commercially reasonable terms and conditions as are deemed appropriate." (See the October 20, 2021 Order attached as Exhibit H to the White Affidavit, page 5.) As of October 20, 2021, with the realignment of five of the former Plaintiffs as new Defendants, the remaining Plaintiffs own in aggregate an undivided 98.828122 percent interest in the Property and the nine Defendants own in aggregate an undivided 1.171878 percent interest in the Property.

The Defendants then had 63 days to buy out the Plaintiffs' interests, in compliance with the specific requirements of the Pinckney Act.³ Not a single Defendant tendered their apportioned price into Court by 5:00 p.m. on December 22, 2021, but their counsel did file a Motion For Relief of Judgment and For Extension of Time to Tender Price Under Right of First Refusal and Motion for Realignment of Parties at 7:54 p.m. that evening. See Exhibit J to the White Affidavit. In addition, the Defendants also filed a "Supplemental Motion For Relief of Judgment and For Extension of Time To Tender Purchase Price Under Right Of First Refusal" on January 5, 2022 and within hours thereafter, another "Amended Supplemental Motion for Relief of Judgment and For Extension of Time To Tender Purchase Price Under Right of First Refusal." See Exhibits K and L to the White Affidavit.

Another status conference and motion hearing was held on January 6, 2022, and from that hearing Judge Dukes' Order of January 20, 2022 emanated, which denied the Defendants' December 22, 2021 motion and the two motions filed January 5, 2022, and further held that to the extent any of the three Defendants' Motions then pending (*i.e.*, the Motion For Relief of Judgment and For Extension of Time to Tender Purchase Price Under Right of First Refusal and Motion for Realignment of Parties filed on the evening of December 22, 2021; the Defendants' Supplemental Motion for Relief of Judgment and For Extension of Time to Tender Purchase Prices Under Right of First Refusal filed January 5, 2022; and the Defendants' Amended Supplemental Motion for Relief of Judgment and For Extension of Time to Tender Purchase Price Under Right of First Refusal filed later in the day on January 5, 2022) "are construed to seek relief or remedy from this Court in addition to reconsideration or amendment of my October 20, 2021 Order, I also respectfully deny those motions." See the January 20, 2022 Order, page 2,

³ During that 63-day period, the Respondents and Rotunda executed a Sixth Amendment to the contract, extending the closing date until March 22, 2022 because of the continuing litigation. See Exhibit I to the White Affidavit.

attached as Exhibit M to the White Affidavit. The Defendants then filed a motion for reconsideration on January 31, 2022 (*see* Exhibit N to the White Affidavit), which was denied by Order dated March 7, 2022. *See* Exhibit O to the White Affidavit.

The original Notice of Appeal to this Court was then filed by the Appellants on March 9, 2022 and a Motion To Stay was filed on March 17, 2022. As noted above, this Court denied that Motion to Stay on June 23, 2022 and denied the Appellants' later filed Motion to Reconsider that Motion to Stay and Order on August 17, 2022. The Plaintiffs then requested the lower court schedule a hearing on their previously filed Amended Motion for Issuance of Master's Deed, and the Defendants responded with the filing of their Motion for Stay. A hearing was held on September 15, 2022 before the Hon. Marvin Dukes, Master in Equity and Special Circuit Judge, and was continued until September 22, 2022 upon Defendants' counsel's request to submit further briefing and argument, which the Defendants never provided to the Circuit Court. At the close of the September 22, 2022 hearing, Judge Dukes issued his verbal ruling denying the Defendants' Motion for a Stay and granting the Plaintiffs' Motion for Issuance of a Master's Deed. Judge Dukes directed the Plaintiffs' counsel to draft a proposed Order reflecting his verbal rulings, provide a copy to Defendants' counsel, and then submit same to the Court for consideration. Contrary to Appellants' counsel's assertion in the pending Motion, filed on October 5, 2022 that "The Respondents' counsels are delaying drafting the Order from the Master in Equity to the Appellants' detriment," Respondents' counsel submitted a copy of the proposed Order to Mr. Houston, Appellants' counsel, on October 4, 2022, before Mr. Houston's filing of the pending Ex Parte: Motion For Order For Immediate Stay And Supersedes [sic] Bond. The proposed Order was submitted to Judge Dukes on October 5, 2022, and he has

notified the parties, as noted in Footnote 2, that he will not take further action in this case until this Court rules on the Appellants' pending Motion.

ARGUMENT AND CITATION OF AUTHORITY

By the pending Motion, the Appellants seek this Court's order imposing a supersedeas of matters decided by Judge Dukes and a "temporary stay." See the unnumbered third page of the pending Motion. The Respondents wish to move forward to close the \$9,750,000.00 sale of the Property to Rotunda unless this Court enters an Order of Supersedeas with an appropriate bond. (The sale did not close earlier on March 22, 2022, because Rotunda's counsel advised the Respondents that Rotunda would not close until this appeal is resolved. *See* the White Affidavit, paragraph 5. However, Rotunda's counsel has now advised the Respondents that Rotunda will move forward to close upon Judge Dukes' issuance of a Master's Deed that includes the 1.171878 percent undivided interest in the land held by the Appellants.)

As the Court can discern from the pleadings attached to the White Affidavit, the dual prongs of this action were an action to Quiet Title in those identified owners and a request to the Court to partition the land by sale in order to allow all owners to share equally on a pro-rata basis in the terms of a contract that is in an amount exceeding the agreed-upon and court-ordered Fair Market Value by \$650,000.00.

The Appellants have not appealed the Consent Order of May 21, 2021 quieting title in the identified owners in certain determined percentages, and thus that is the law of the case. But the Appellants have attempted to appeal⁴ Judge Dukes' Order of October 20, 2021, which specifically provided that if the Defendants, *i.e.*, the Appellants, failed to timely pay in to the

⁴ Respondents reserve all arguments on the substantive issues of whether the Notice of Appeal was timely filed.

Court their apportioned prices to buy out the Plaintiffs', *i.e.*, the Respondents', interests under the Pinckney Act provisions, "then the property that is the subject of this action shall be partitioned by sale at a purchase price of not less than \$9,100,000.00, and that the Plaintiffs shall be authorized to enter into, or ratify, a contract of sale for not less than such price, and including such other commercially reasonable terms and conditions as are deemed appropriate." (See Exhibit H to the White Affidavit.)

Judge Dukes' Order that the Property "shall be partitioned by sale" falls squarely within the ambit of S.C. Code Annot. Section 18-9-170, which provides that:

[i]f the judgment appealed from direct [sic] the sale of delivery of possession of real property, the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon and that if the judgment be affirmed he will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which judgment was rendered and which shall be specified in the undertaking.

Although there do not appear to be any cases directly on point dealing with a situation where some of the owners of heirs' property sought to partition their land by sale and went through all of the detailed procedures providing safeguards to other co-owners pursuant to the Pinckney Act, the clear intention of the Legislature by enacting S.C. Code Annot. Section 18-9-170, was to provide a bonding requirement prior to the issuance of any stay in this type suit, so that the benefits of a contract of sale, if lost because of the delays of appeal, would not be lost to the Respondents.

Respondents acknowledge the inherent right of the Appellants to seek appellate review of lower court decisions as long as the appellate court rules are followed. But those rules, as is the case here, may require the Appellants to adequately bond off the anticipated damages that the

Respondents are very likely to incur during the pendency of the appeal in the form of a lost contract or crash of the current real estate market. Although the Respondents have taken good faith steps toward attempting to extend the Rotunda contract yet again, given the current state of the economy, it is only fair and reasonable that the Court condition any stay in this case upon a substantial bond of at least Nine Million Seven Hundred Fifty Thousand (\$9,750,000.00) Dollars to be placed by the Appellants prior to, and as a condition of, any stay.

CONCLUSION

The Respondents, who together own an undivided 98.828122 percent interest in this 26.462 acres of heirs' property, have carefully and deliberately moved through the statutory process of quieting title and partitioning the land by sale in accordance with the provisions of the Pinckney Act, and have a contract in hand which will pay all of the landowners, including the 1.171878 percent interest owners who are the Appellants, a generous amount above Fair Market Value for the land. Having assiduously followed the requirements of the law, the Plaintiffs now find themselves facing the prospect of losing a deal "of a lifetime" for all, because of the actions of the 1.171878 percent interest owners who have chosen to file an appeal in this matter just at the time the economy seems ready to swoon, with a possible concomitant real estate loss of value. If the Appellants wish to continue to play this game of "chicken" in what appears to be a clear attempt to force the majority owners to pay the Appellants more than they are entitled to, this Court should require the Appellants to appropriately place a security bond as envisioned under the Rules and applicable law.

The Ex Parte: Motion For Order For Immediate Stay and Supersedes [sic] Bond should be denied because it does not comport with the strict requirements of the Appellate Court Rules, or only granted with the placement of a bond in the amount of \$9,750,000.00 conditioned to

make the Respondents whole should they lose the Rotunda contract during the pendency of the appeal and then prevail on the merits of this Appeal.

LAW OFFICE OF THOMAS C. TAYLOR,
LLC

s/Thomas C. Taylor

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Bluffton, South Carolina
October 10, 2022

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Oct 05 2022

SC Court of Appeals

**STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS**

**HON. MARVIN H. DUKES
MASTER IN EQUITY**

Case # 2020-CP-07-02301

**GEORGIA HARRISON, BARBARA HARRISON,
JOYCE ELLEN HARRISON, WILLIAM S.
HARRISON, III, STANLEY ROBERTS AND
DIANA MENDHEIM INDIVIDUALLY AND AS
AGENT AND ATTORNEY IN FACT,**

Plaintiffs,

RESPONDENTS

vs.

**STEPHANIE LORRAINE KIRKLAND, GARY
LAMONT KIRKLAND, KIETA NICOLE WHITE,
AND CHERYL KIRKLAND,**

Defendants.

APPELLANTS

**EX PARTE:
MOTION FOR ORDER FOR IMMEDIATE STAY AND SUPERSEDES BOND**

The Appellants would respectfully move this Court pursuant to Rule 241, SCRAP and particularly under the provisions of 241(c)(1), d(2) and d(6) of this Rule. for an *ex parte* Order of relief.

The ruling of the Master in Equity on September 22, 2022 has not been filed as an order due to the inordinate delay by Respondents' counsels in preparing a proposed order for the Master in Equity to review and file. Appellants would suffer irreparable harm and injury during this prolonged interval if they are compelled to wait upon the prolonged issuance of the order to present to this court as is the normal practice for the reasons set forth herein. The Appellant is prepared and willing to post a supersedes bond under such terms and conditions as this Court may find equitable and just.

Appellants would move this Court for an immediate temporary order staying the proceedings now pending in the lower court, especially the ruling of the Master in Equity issued at a hastily arranged conference meeting on September 22, 2022⁹ (see Exhibit 1 e-mail) denying Appellants' motion for a Supersedes Bond for any amount, authorizing the Respondents to sell the property; and further, that the Master in Equity would convey the unimproved "Heirs Titled "property subject of this action to the Respondents' purported buyer. (An action the Court had previously refrained from doing at the time the Respondents desired to exercise their "Right of First Refusal.)

There was a full hearing upon the motions held before the Master in Equity on September 22, 2022. (See transcript attached as Exhibit 2). The Appellants' Motion for Stay and Supersedes Bond, Exhibit 3; Appellants' Return in Opposition to Respondents'

Motion for Master's Deed, Exhibit 4; Respondents' Return in Opposition to Supersedes, Exhibit 5; Respondents' counsels delay in drafting the proposed order of the Master in Equity.

The urgency for this Court to take jurisdiction immediately and issue a temporary stay until the issue of a supersedeas bond may be fully reviewed by this Court is that if the sale of the property is completed before the ruling of the Master in Equity is embodied into an Order, the Appellants would be left without any remedy and their appeal taking to this Honorable Court may be subject to dismissal on the grounds of mootness, save a collateral action for reformation of the deed be brought in the future. The Respondents' counsels are delaying drafting the Order from the Master in Equity's ruling to the Appellants' detriment. This delay has the strong potential of prevented this court from reviewing the multiple assignments of error of law, the lack of due process of law and the denial of equal protection under the law that have occurred in this case.

Further, this Court issuing a temporary stay would prevent a fraud upon the Court being unjustly rewarded. This action was brought for Partition Sale and to Quiet Title. The Respondents have persuaded the court to issue its final order ending the case upon the intended sale of the property while no proceedings have been held to quiet the title. There exist four non probated estates among the heirs. This will also deprive the Appellants of a valuable property right -i.e. The assurance of receiving a higher price for the property once the title becomes quieted and marketable. The fraud is that the Respondents never intended to clear the title in the name of the heirs. They will wait until the property is sold and the

present heirs interest extinguished and afterward, bring a new action with the intended buyer, Rotunda, as the plaintiff.

The Master in Equity has committed an egregious error of law by not exercising any discretion within the realm of discretion dictated by Rule 241(c) (3) by not exercising any discretion in outright denying any Supersedes Bond. An action that may only be remedied by this Court that it is urgently requested by the Appellants and the Court under the premises considered; would be justified in granting.

Respectfully submitted,

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By: S/ Charles E. Houston Jr.
Charles E. Houston Jr.
SC Bar # 2663
Attorney for Appellants

October 4, 2022
Hilton Head Island, SC

STATE OF SOUTH CAROLINA, COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

GEORGIA HARRISON, BARBARA
HARRISON, JOYCE ELLEN HARRISON,
WILLIAM S. HARRISON, III,
STANLEY ROBERTS, and DIANA
MENDHEIM, individually and as
agent and attorney in fact,
Plaintiffs,

v.

Civil Action No.
2020-CP-07-02301

STEPHANIE LORRAINE KIRKLAND,
GARY LAMONT KIRKLAND, KEITA
NICOLE WHITE, CHERYL KIRKLAND,
WILLIAM CHARLES KIRKLAND,
PAULETTE KIRKLAND, PAUL T.
ALLBRIGHT, CHRISTOPHER KIRKLAND
AND SHAWN KIRKLAND,
Defendants.

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VIDEOCONFERENCE HEARING

DATE: Thursday, September 15, 2022
TIME: 11:03 a.m. EDT/10:03 a.m. CDT
BEFORE: Honorable Marvin H. Dukes III
LOCATION: Remote Proceeding
Dallas, TX 75201
REPORTED BY: Sophie Caudle, Notary Public
JOB NO.: 5466494

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A P P E A R A N C E S

ON BEHALF OF PLAINTIFFS GEORGIA HARRISON, BARBARA
HARRISON, JOYCE ELLEN HARRISON, WILLIAM S. HARRISON,
III, STANLEY ROBERTS, AND DIANA MENDHEIM:

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1 A P P E A R A N C E S (Cont'd)
2 ON BEHALF OF DEFENDANTS STEPHANIE LORRAINE KIRKLAND,
3 GARY LAMONT KIRKLAND, KEITA NICOLE WHITE, CHERYL
4 KIRKLAND, WILLIAM CHARLES KIRKLAND, PAULETTE KIRKLAND,
5 PAUL T. ALLBRIGHT, CHRISTOPHER KIRKLAND, AND SHAWN
6 KIRKLAND:

7 CHARLES HOUSTON, ESQUIRE (by videoconference)
8 The Houston Law Firm, L.L.C.
9 1000 Main Street, Suite 200 C
10 Hilton Head, SC 29926
11 chouston@houstonlawfirm.net

12
13 ALSO PRESENT:

14 Andre White
15 Barbara J. Harrison, Plaintiff (by
16 videoconference)
17 Earsa Jackson, Esquire, Clark Hill PLC (by
18 videoconference)
19 Georgia Harrison, Plaintiff (by videoconference)
20 Kay White (by videoconference)
21 Mark Jones (by videoconference)
22 Robert Young (by videoconference)
23 Rose Hampton (by videoconference)
24 Tyrone Hodges (by videoconference)

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
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Plaintiff:

(None marked.)

NO.	DESCRIPTION	ID/EVD
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Defendant:

(None marked.)

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P R O C E E D I N G S

THE COURT: Good morning. We're here in 2020-CP-07-02301. This is Harrison et al. vs. Kirkland et al. And this matter was scheduled for 10:30 a.m. today, the 15th of September for all outstanding motions. We're getting a little bit of a late start. It's 11:03 a.m. We had some difficulty trying to get Mr. Houston on. And Mr. Houston has decided to proceed audio only, and we can hear him just fine. And so we'll proceed that way.

Now I've got all outstanding motions. I see one motion. That is Defendants' Motion for Stay and Waiver of Supersedeas Bond or in the Alternative, a Nominal Bond Pending Appeal.

And, Mr. Houston, I'm happy to hear from you, sir.

MR. HOUSTON: Well, there are two motions, I think, Your Honor.

THE COURT: Okay.

MR. HOUSTON: The defendants have a motion, which you just identified. And I think also the plaintiffs had filed a motion for a master's deed, which I think is also on the agenda for today, if I'm correct.

THE COURT: Thank you for that

1 clarification. I should have noted that we're
2 actually having trouble with the CMS system right now,
3 so I have to open each individual document. I can't
4 scroll anymore. So I see that as well.

5 Let me ask, though: I would assume,
6 based on the nature of the motions, it makes some
7 sense to hear the defendants' motion first. Do the
8 parties agree on that? Otherwise, I ordinarily hear
9 motions, as y'all know, in the order in which they
10 were filed. Is there any --

11 MR. TAYLOR: Well, Your Honor, we would
12 agree that Mr. Houston's motion being heard first
13 would be appropriate.

14 THE COURT: Okay. Thank you so much.
15 All right then, Mr. Houston. I am
16 happy to hear from you, sir.

17 MR. HOUSTON: Okay. The first thing I
18 want to point out to the Court, Your Honor, is that we
19 have a duty to be candid and honest with the Court in
20 writing our briefs and in the factual representations
21 we make to the Court. And in that light, I give
22 reference to the brief filed yesterday evening by the
23 defendants citing the controlling statute pertaining
24 to the granting of a stay and supersedeas, which was
25 an error and very misleading. The statute that is

1 controlling is basically 16-6-270. Hold on. I'm
2 going to make sure I'm giving you the right number.
3 This is very small print coming off of
4 the -- otherwise, the ones that the defendants had
5 cited in their brief pertains to money judgments, and
6 that's not the category of our particular case. We're
7 not involved with a money judgment. We're
8 involved -- which I think that the statute they quoted
9 was I think 240. And the controlling one is 270.

10 And that is an order, you know, for the
11 sale of property in which the standards apply
12 different and the supersedeas bonds are much lower.
13 Under 270, basically the only bond that is required is
14 a bond to cover any waste to the land. And since this
15 is undeveloped property, you know, there can be no
16 damage done to it. No one is using it or occupying it
17 or having any activity upon the property. So the
18 property would be preserved in its natural state
19 during the pendency of the appeal.

20 And the formula that the statute sets
21 forth is the difference between the present value or
22 use of the property at this time compared with what it
23 would be at the time the appeal process would have
24 been resolved and completed. So here, we're dealing
25 with raw land, so we're only dealing with a nominal or

1 really no supersedeas bond at all. The --

2 THE COURT: I'm listening, sir. Keep
3 going.

4 MR. HOUSTON: Okay. The second point I
5 want to bring to the Court's attention is that the
6 order itself is vague, and the plaintiffs have not
7 conformed to it. This order was issued back in
8 October. And in January, I believe, the defendants
9 requested an additional amount of time to complete the
10 contract. This is September 2022. And as yet, there
11 has been no announcement that a valid contract exists.
12 And your order speaks to a valid contract. And since
13 there is no valid contract, that makes the order
14 voidable.

15 Additionally, the order didn't put any
16 definitive time frame in it, which it should have.
17 But in any event, back in January, they asked for
18 additional 60 or 90 days, and they weren't able to
19 produce. So we're being asked to post a bond on an
20 order, and the order itself is not concrete as to its
21 terms.

22 MR. FINGER: This is Terry Finger. At
23 the risk of interrupting, there is a valid contract
24 between my client, Rotunda Land Company, and the
25 plaintiffs. It is still in existence. We have been

1 waiting, ready, willing, and able to close. We just
2 keep -- every time we get close, there's another
3 appeal or another motion or something like that. But
4 there is a contract in place between the parties that
5 are referenced earlier in these transactions.

6 MR. TAYLOR: And copies had been
7 delivered to Mr. Houston prior.

8 THE COURT: Okay. All right. Thank
9 you.

10 Mr. Houston, go ahead and finish if you
11 would, please.

12 MR. HOUSTON: What is the date of the
13 contract? We've never been provided a complete
14 contract. The only thing we've heard of is that
15 requested another extension.

16 THE COURT: Do y'all have the date of
17 the contract?

18 MR. TAYLOR: Chet, can you help me with
19 that?

20 THE COURT: -- muted.

21 MR. TAYLOR: Turn your volume on,
22 Chester.

23 MR. WILLIAMS: Yeah. Your Honor, I'm
24 looking at a copy of an e-mail that I sent to
25 Mr. Houston on January 6 of this year that had a copy

1 of the fully executed contract attached to it.

2 THE COURT: Okay. Thank you.

3 MR. WILLIAMS: And --

4 MS. JACKSON: And, Your Honor, if I may
5 add, I think that what was provided had an expiration
6 date or a deadline by which to close. And I believe
7 that he's referring to documentation of an extension
8 of that deadline.

9 MR. WILLIAMS: Correct. And there have
10 been several extensions. And at this point, though,
11 there is a valid contract out there. Neither the
12 buyer nor the seller have taken any action to put the
13 other in default. And both the buyer and the seller
14 agree that there's a valid contract.

15 THE COURT: Okay. Thank you.

16 Mr. Houston, go ahead and --

17 MR. HOUSTON: Okay.

18 THE COURT: Yes, sir.

19 MR. HOUSTON: I'm raising the question
20 of the validity of a contract that they have come to
21 court and say, "This is the contract that's signed."
22 You know, for all we know, at some time, they may have
23 had a tentative contract that's now void.

24 THE COURT: Well, they have both sides
25 to the contract on this call, and they claim the

1 contract still exists. But -- go ahead.

2 MR. HOUSTON: That's lawyer's talk.
3 That's not producing the document.

4 MR. FINGER: Am I being accused of
5 misrepresenting my client?

6 MR. HOUSTON: You know, all we
7 concerned, they could say they have a verbal contract.

8 THE COURT: Okay. Well -- everybody
9 hold up a second. So I assume there's no objection to
10 sending Mr. Houston the latest contract extension if
11 he doesn't already have it. But that might resolve
12 that issue if it is an issue.

13 But so, Mr. Houston, go on with your
14 motion if you would, please, sir.

15 MR. HOUSTON: All right. But that's
16 the other point. The third point, Your Honor -- the
17 other matter. But those are the two salient points.
18 Plus the other points I've outlined in our brief. But
19 those are the two salient points that I want to bring
20 to the Court's attention now. One, we received it
21 under the incorrect statute, and that 270 controls as
22 the standard there. And the other one is that the
23 question about whether or not there is a valid
24 contract to substantiate the Court's order.

25 THE COURT: Okay. All right. Thank

1 you so much, sir.

2 MR. HOUSTON: -- says that they compel
3 it. They can enter the contract if they have it. If
4 they have it, come forth with the contract.

5 THE COURT: Okay.

6 MR. WILLIAMS: Well, that's simply not
7 true, Charles -- in March. It's the same contract.

8 THE COURT: Y'all hold on one second.
9 Let me make sure Mr. Houston is finished, and then
10 I'll be happy to hear the opposition to his motion.

11 So, Mr. Houston, anything else, sir?

12 MR. HOUSTON: Well, Your Honor, yes.
13 What I would say is that if they don't want to show
14 the contract to us -- which they should -- but that
15 they at least show it to you that they have a valid
16 contract and not a contract -- and not a contract
17 dependent upon the logic contingencies.

18 MR. WILLIAMS: If I may, Your Honor.

19 Charles, did you not get that e-mail
20 that I sent you in January with the copy of the
21 contract attached to it?

22 MR. HOUSTON: I may have, but I don't
23 have it in front of me. It's not been filed of
24 record.

25 MR. WILLIAMS: Well, it didn't bounce

1 back to me, so I have to assume that you got it. So
2 you do have the contract. So --

3 MR. HOUSTON: I'm not denying that you
4 sent me something. Right. But what I'm saying is --

5 MR. WILLIAMS: -- that we hadn't
6 provided it to you.

7 THE COURT: Yeah. We're making it
8 really difficult for our court reporter who's trying
9 to --

10 MR. WILLIAMS: I apologize.

11 THE COURT: -- take down everyone's
12 voices at once.

13 But let me do this: Mr. Houston, I
14 want to make sure you've told me everything you want
15 to tell me. Is there anything else, sir?

16 MR. HOUSTON: Well, we're talking,
17 basically, about a reasonable supersedeas bond. And
18 what we request is that the requirement of supersedeas
19 be waived or, if it can't be waived, let just some
20 nominal amount be established under the provisions of
21 the section 70 of that. I think it's 16-12-70 statute
22 dealing with appeals.

23 THE COURT: All right. Thank you.

24 MR. HOUSTON: If it's not granted, the
25 defendants will suffer irreparable harm and with the

1 potential, you know, that the appeal could be
2 dismissed as moot.

3 THE COURT: All right.

4 MR. HOUSTON: Yeah. The plaintiffs
5 have shown no prejudice. They have made the argument
6 about the economic factor, but that's frivolous.
7 You're talking about a development that's probably ten
8 years to twelve years into development. And basically
9 whatever the economic environment may be at the
10 moment, that's subject to change. And we're looking
11 at an extended period of time. I know my clients have
12 budgeted at least 75 million for the development of
13 this property. So where the stock market is today or
14 might be within the next few days, that is irrelevant
15 and not even taken into consideration for someone
16 who's going to make a major development. I mean,
17 everything on Hilton Head that's been built was
18 usually planned during bad times, so by the time they
19 built it, the good times are there. So I think that
20 their argument is misplaced and frivolous and carries
21 no substantial weight for consideration.

22 THE COURT: All right. Thank you so
23 much, sir. I appreciate it.

24 MR. HOUSTON: I also give reference
25 to --

1 THE COURT: Oh, go ahead.

2 MR. HOUSTON: -- all the other points I
3 made in my brief. But for the brevity of time, I
4 don't want to dwell on each one at that particular
5 moment, Your Honor. But I'll ask you to read the
6 brief and take those other factors in consideration.

7 THE COURT: Thank you so much, sir.

8 All right. I'm happy to hear anything
9 in opposition.

10 MR. TAYLOR: Your Honor, good morning.
11 Tom Taylor on behalf of the petitioning plaintiffs.
12 Judge, first, to deal with the issue of the contract,
13 let me be as clear as possible: I, with 38 years of
14 experience in front of -- Chet Williams, who is also
15 here on behalf of the plaintiffs, and Terry Finger
16 have affirmatively represented to the Court this
17 morning that there is a valid and existing contract
18 between Rotunda and the plaintiffs for the sale of
19 this property at \$9,750,000. That contract has been
20 previously provided to Mr. Houston. Copy of it will
21 be provided to Mr. Houston within an hour of this.

22 And, Your Honor, I draw the Court's
23 attention to the fact that in his motion, there is not
24 a word contending that there is not a valid contract
25 in existence. I have no idea where this issue came

1 from this morning. And certainly we could have
2 provided it prior to this had there been an issue
3 raised about it. But it is in existence, and it is
4 valid from both perspectives.

5 And, Mr. Finger, I'd ask you to confirm
6 that.

7 MR. FINGER: That's correct,
8 Your Honor.

9 MR. TAYLOR: All right. Judge --

10 MR. HOUSTON: My point is that they
11 have a contract, but it may not be a contract for a
12 complete sale. When is the closing date? Does the
13 contract specify a closing date?

14 THE COURT: Why don't we do this? I
15 understand that the contract is to be e-mailed to you,
16 Mr. Houston. And I'll let you tell me whatever else
17 you want to tell me once Mr. Taylor finishes. Why
18 don't we just try to keep it back and forth rather
19 than all at once? It makes it --

20 MR. HOUSTON: Well, Your Honor, I'm not
21 the person who's going to be the finder of fact.
22 E-mailing it to me doesn't accomplish anything. I
23 think that basically it should be submitted for your
24 review to see if it's a current and exercisable
25 present contract or if it's just a contract with the

1 intent to purchase with a lot of contingencies
2 contained in the contract.

3 THE COURT: Would y'all copy me with
4 the contract when you copy Mr. Houston again with it,
5 please? So --

6 MR. WILLIAMS: Your Honor, I've just
7 sent it to Mr. Houston. I've copied you. I've copied
8 Heather. I've copied Ms. Jackson. I've copied
9 Mr. Taylor. I've copied Mr. Finger. And --

10 MR. HOUSTON: Thank you for that.

11 MR. WILLIAMS: -- it does provide for a
12 closing date, I think, on March 22nd. However,
13 because of the defendants' actions in this
14 matter -- the dilatory actions of the
15 defendant -- we're not in a position to close yet.
16 We're waiting -- well, we are as long as Judge Dukes
17 grants our motion to sign a master's deed. Then we'll
18 be able to close. And neither party has taken any
19 action steps to put the other party into default.

20 THE COURT: Okay. Thank you so much.

21 All right. Mr. Taylor, go on, please.

22 MR. TAYLOR: Your Honor, thank you.

23 Your Honor, focusing on the motion at
24 hand -- Mr. Houston's motion which is entitled Motion
25 for Stay and Waiver of Supersedeas Bond -- we filed a

1 memorandum yesterday afternoon. Mr. Houston has
2 discussed it. Your Honor, this entire issue has
3 already been decided. As the Court is aware,
4 Mr. Houston has filed the notice of appeal with the
5 Court of Appeals, and that was filed on March the 9th
6 of 2022. On March the 17th of 2022, Mr. Houston filed
7 a motion pursuant to Rule 241(a), asking the Court of
8 Appeals to declare an automatic stay. And by order of
9 June 23, 2022, the Court of Appeals denied that motion
10 and stated specifically that the relief sought
11 required the posting in writing with two sureties
12 guaranteeing the property will not be wasted while the
13 appeal is pending. The Court of Appeals has
14 already -- and then -- asked for a reconsideration of
15 that. And after another two months, the Court of
16 Appeals denies the motion for reconsideration. The
17 Court of Appeals judge has already ruled that pursuant
18 to Rule 241, there is no automatic stay in this
19 matter, and that if there is going to be one,
20 Mr. Houston has to apply on behalf of his clients for
21 a supersedeas, and then this Court will decide what
22 that supersedeas, if it should be granted, should also
23 be bonded off with.

24 And, Your Honor, we would maintain very
25 strongly, as we have in every hearing that has been

1 held of this matter, that the continuing delays on the
2 sale of this land put at risk very much the \$9,750,000
3 price, which, Your Honor, I would remind the Court, is
4 a benefit to not only the plaintiffs, but to the
5 defendants because everyone is going to share in this
6 sale price pursuant to the previously agreed-upon and
7 court-ordered ownership percentages. There's nothing
8 about that that is in question anymore. The only
9 question is, how long are we going to delay until we
10 sell this land?

11 Your Honor, the motion is controlled by
12 Rule 241. Mr. Houston has talked a little bit about
13 the code. Because he raised that in his motion, I
14 attempted to address it for the Court's benefit.
15 Judge, what he is talking about is Section 18-9-130,
16 which I quote in my brief. And Mr. Houston talked
17 about 18-9-17, which may arguably be the more
18 appropriate code section to look at. But provides in
19 the same light, Judge, that a surety has to be taken
20 out to affirm that there is no waste committed on the
21 land. And, Judge, we don't know of anything that
22 could be more wasteful to all the people involved in
23 this process than to have a \$9,750,000 contract, which
24 was executed at the time when land sales were probably
25 40 to 50 percent higher than they are right now, given

1 what has occurred with the real estate and stock
2 market. And we urge the Court to deny the motion for
3 any type of nominal bond and to grant the motion only
4 upon a ordering and a rendering of a bond of
5 \$9.75 million in order to secure this property and to
6 secure the contract until the Court of Appeals can
7 rule upon the matter.

8 THE COURT: Now I've got --

9 MR. HOUSTON: -- interrupt --

10 THE COURT: All right, Mr. Houston.

11 MR. HOUSTON: In response -- again,
12 Counsel is citing the wrong statute. It's this 170
13 that controls the situation. This is not a judgment
14 for the payment of money. If this were a judgment for
15 the payment of money, what Counsel is proffering to
16 the Court would be correct. But Counsel knows, being
17 a learned lawyer, that this is not the nature of what
18 we are involved with -- order to sell property. Okay?

19 The second thing is, we have not
20 engaged in any dilatory practice. We have exercised
21 every right we have under the law because of the
22 deceitful manner in which the plaintiffs' counsel have
23 proceeded with this case. Not only with the due
24 process violation, but also with not proceeding to
25 permit the granting of a deed to the defendants when

1 they were requested to exercise their right of first
2 refusal.

3 The second thing is, they had no
4 intentions of going through with this action. They
5 said that this was an action to quiet title. But they
6 had no intent to take it that far. And they knew at
7 the inception of the action that there were four
8 outstanding estates. And so what their game plan was,
9 was to just take it as far as getting a order to sell,
10 and I don't know how they're going to close on any
11 quitclaim deed. But even if they do close on a
12 quitclaim deed, then what they're going to do is going
13 to bring another quiet title action, and then that
14 quiet title action alleged that my defendants have
15 already conveyed their interest in the property. And
16 that's deceitful. You know, when they said that
17 they're bringing an action to quiet title, that
18 actually stops my defendants from doing that. If we
19 have wanted to create a title, we wouldn't have been
20 able to do so because there was an action pending.

21 So the counsel for the plaintiffs have
22 not pursued this matter in good faith by not
23 proceeding to complete the cause of action that they
24 instituted. You know, that they stopped at the
25 halfway mark. So you know, to accuse of us any

1 dilatory practice is misplaced.

2 MR. WILLIAMS: If I may, Your Honor.

3 THE COURT: Go ahead, please, sir.

4 MR. WILLIAMS: Mr. Houston simply is
5 absolutely wrong in his assertion that there were four
6 open estates at the time of the consent order that
7 quieted title. At that point, all of the co-owners of
8 the property were living and alive. It's only because
9 of the defendants' dilatory actions through this that
10 four open estates are now out there. But, Your Honor,
11 you've addressed that before, and the way you handled
12 that is the property is sold; any amounts that are due
13 to those estates go into the registry of the court
14 until the estates are probated; they can then be
15 distributed from there.

16 THE COURT: Thank you.

17 MR. TAYLOR: Your Honor --

18 MR. HOUSTON: Your Honor, that consent
19 order is a subterfuge. Even in a criminal case, you
20 can't convict the defendant on just a confession; you
21 have to have some other collateral evidence. And in
22 this situation, they tried to substitute a consent
23 order in lieu of having an evidentiary hearing. And
24 because even the consent order, everybody couldn't
25 consent to it because some people had died.

1 MR. TAYLOR: Your Honor. Tom Taylor.

2 MR. HOUSTON: So that was another
3 subterfuge and misrepresentation of a nature.

4 MR. WILLIAMS: And I take offense at
5 being inferred -- not inferred -- absolutely stated
6 that we are doing anything underhand.

7 THE COURT: Thank you.

8 Mr. Taylor, you had something you
9 wanted to add.

10 MR. TAYLOR: Yes, sir, Your Honor.
11 Your Honor, for the record, all of this discussion
12 about the topics that Mr. Houston is now throwing out
13 there is inappropriate in this motion. Mr. Houston
14 can make those arguments if he likes to the Court of
15 Appeals via his appeal, but they are inappropriate at
16 this point.

17 And biting my tongue as hard I can,
18 Judge, I want to again say I take great offense at
19 this. And I know, Judge, you don't want to hear this,
20 but, Your Honor, Mr. Vaux representing the defendants
21 a year and a half ago consented to the ownership
22 because everyone knew that it was the right thing to
23 do. And there is a court order as to that in the
24 file. And to just be marching the law and throwing
25 out these allegations of deceit on behalf of me and

1 Chet and our plaintiffs is just factually wrong, and
2 it's just morally wrong --

3 MR. HOUSTON: You know -- in any case
4 in the history of South Carolina jurisprudence where a
5 consent order is accepted in lieu of a
6 statutory-required evidentiary hearing.

7 MR. TAYLOR: That's just bizarre to
8 even say.

9 MR. WILLIAMS: Yeah. I suggest that
10 there's been jurisprudence that says you can't do it.

11 THE COURT: Well, let's do this: I'm
12 going to try to read the statutes y'all have given me,
13 try to figure out what "waste" means, look at all of
14 this, and try to let y'all know something. I know
15 it's gone on forever. I see something popped up. I
16 guess somebody sent me the contract a minute ago. I
17 hadn't looked at it yet, of course.

18 MR. WILLIAMS: I did, Your Honor.

19 THE COURT: But I'll take a look at all
20 of it. This is the case -- and I got several of these
21 cases, of course, that sometimes run into one another
22 in my mind. But, Mr. Houston, your clients represent
23 what percentage ownership of the whole?

24 MR. TAYLOR: One point one percent.

25 MR. HOUSTON: Your Honor, the

1 percentage doesn't have anything to do with equitable
2 rights.

3 THE COURT: I'm sorry. I didn't hear
4 that, sir.

5 MR. HOUSTON: I said percentages has
6 nothing to do with equitable rights. And so far, if
7 we want to make comparisons, we've offered more money
8 than their alleged contract calls to pay --

9 THE COURT: My question didn't have
10 to --

11 MR. HOUSTON: -- communicated -- let me
12 finish, please.

13 THE COURT: Go ahead, please, sir.

14 MR. HOUSTON: This wasn't communicated
15 to their clients. Their clients don't know that we
16 took more -- that they would see more money under our
17 offer than they would under this present contract.

18 MR. WILLIAMS: Your Honor, the
19 contract --

20 MR. HOUSTON: -- the essence of what
21 I'm saying is percentages doesn't mean anything. The
22 thing that should be considered is, what is the
23 maximum benefit to the greatest number of people? And
24 the contract that the money amount offer we offered
25 would be, whether or not we're just a small minority

1 or not.

2 MR. WILLIAMS: Your Honor, please.

3 Your Honor --

4 MR. HOUSTON: -- well, minority doesn't
5 come into the equation.

6 MR. WILLIAMS: Yeah --

7 THE COURT: Charles, you tell us when
8 you're finished because it sounds like you're
9 finished, and then you'll start again. So tell me --

10 MR. HOUSTON: I'm finished on that
11 point.

12 THE COURT: Okay. Thank you so much.

13 MR. HOUSTON: You were raising the
14 thing about the percentage.

15 MR. WILLIAMS: If I may, Your Honor.
16 This contract that Mr. Houston keeps talking about
17 isn't signed. It never has been signed. And it
18 provides for, as I recall, a new 180-day due diligence
19 period within which the prospective buyer can cancel
20 the contract.

21 The Rotunda contract that's in place
22 right now, the addenda to the contract state that the
23 due diligence periods have already run, they can't
24 cancel the contract anymore under it, and the title
25 examination periods have run. Mr. Finger, of course,

1 will want to update title from the last -- but there
2 are no more contingencies left in the Rotunda
3 contract.

4 The contract that Mr. Houston keeps
5 talking about that doesn't actually exist because it's
6 never been signed has all sorts of contingencies in it
7 during which period of time the buyer can just walk
8 away and leave all of the owners of the property
9 holding a bag full of nothing. Thank you.

10 MR. TAYLOR: Your Honor --

11 MR. HOUSTON: Counsel, it wasn't --

12 MR. TAYLOR: Your Honor --

13 MR. HOUSTON: It wasn't offered as a
14 contract. It was an offer.

15 MR. WILLIAMS: But you keep saying
16 "contract," Charles.

17 MR. HOUSTON: No. I said we made an
18 offer.

19 MR. WILLIAMS: No. You said
20 "contract."

21 MR. HOUSTON: -- that exceeds
22 what -- let me clarify that: I said that the
23 defendants made an offer that, if it were accepted,
24 would be a greater benefit to the heirs than what they
25 would receive on the proposed contract with Rotunda.

1 MR. WILLIAMS: If it in fact ever
2 closed, which it very well might not do.

3 MR. HOUSTON: Well, you know, that
4 could be applicable on both sides.

5 MR. WILLIAMS: No. Because on the
6 Rotunda side, all the due diligence periods have run.

7 THE COURT: All right. Let's do this
8 rather than y'all arguing back and forth. I
9 appreciate the spirited banter. But let me ask y'all
10 a practical question here with regard to Mr. Houston's
11 motion: If in fact I were to set a bond, and if in
12 fact we had a downturn in the economy, which is -- the
13 economy goes up; it goes down. It's been up; I mean,
14 common sense dictates, it will be down at some point.
15 When? How much? Who knows? Wish I knew. But nobody
16 really knows that. But it would be inconceivable that
17 this property would drop to zero. It certainly is
18 conceivable -- I think we all probably remember
19 2008/2009 when things fell to 50 percent of their
20 previous value in Beaufort County. I'm sure it was
21 worse in other places. I guess if I were to
22 say -- because I don't think a nominal bond protects
23 against waste. And "waste" is, I believe, the
24 applicable word if I use 170, as Mr. Houston wants me
25 to do, which may very well be exactly right. But that

1 doesn't mean that number is zero. And it doesn't mean
2 the number is the entire value of the property.

3 MR. HOUSTON: Your Honor, if I may
4 interrupt. I think the --

5 THE COURT: Sure.

6 MR. HOUSTON: -- statute does say that
7 the bond would cover any, I think, diminution in
8 value.

9 THE COURT: Right. And so we've got a
10 value right now of the contract price of nine million
11 whatever. If the value is diminished by operation of
12 the economy, by comet hitting Hilton Head, by, you
13 know, anything, then there's a diminution of value.
14 The question is, what is that diminution of value?
15 Nobody really knows that. Again, it's not going to
16 zero. I mean, unless somebody discovers that the
17 place is a toxic waste dump or something, and I'm sure
18 that's already been explored. So is it going to
19 50 percent? Is that a safe bet? I don't know. I
20 don't know the answer to that. I don't know if y'all
21 have any thoughts. Again, I don't think it goes to
22 zero. But if the economy drops, it certainly goes
23 below nine. Any thoughts on that?

24 MR. HOUSTON: Well --

25 MR. TAYLOR: Your Honor --

1 MR. HOUSTON: -- Your Honor, they've
2 already assumed that risk in a sense that they said
3 that they're ready to go to contract now. So if the
4 economy drops, they're buying property that the value
5 could go down three months from now.

6 THE COURT: Property buying's a risky
7 undertaking. I'll grant you that.

8 MR. WILLIAMS: Yeah. Your Honor, I
9 think one of the real risks here is that if you do
10 grant the supersedeas and the bond is posted, then
11 there's a chance that Rotunda walks away. And then
12 the bottom drops out, and next time we go to sell the
13 property, instead of nine million seven fifty,
14 someone's only willing to offer four million --

15 THE COURT: Exactly. That's --

16 MR. WILLIAMS: -- the risk. Yes.

17 THE COURT: That's the risk. And I
18 think that's one of the things "waste" means:
19 Diminution of value. I just don't know what that
20 number is. I mean, again, historically, I think most
21 of us on the thing here remember the last recession
22 and the amount things dropped, which was a lot. But I
23 don't --

24 MR. HOUSTON: But, Your Honor --

25 THE COURT: Go ahead, sir.

1 MR. HOUSTON: Your Honor, during this
2 recession, the price of property on Hilton Head has
3 gone up 35 percent.

4 THE COURT: -- well, we're not in a
5 recession yet. But you know, and so I don't know. If
6 I knew --

7 MR. WHITE: Judge Dukes --

8 THE COURT: -- I'd be living on a yacht
9 in the Med, you know, calling into my broker. But
10 it's --

11 MR. WHITE: Well, Judge Dukes, that's
12 why it goes to the point that you should assume that
13 it's zero; right? Because there could be no potential
14 market at all. Like, we shouldn't say that
15 it's -- you can't determine --

16 THE COURT: I appreciate your input,
17 Mr. White, and I appreciate your expertise. But I
18 think there's always a market, again, unless there's
19 something like an oil spill or --

20 MR. WHITE: Well, no. I was just
21 saying, it's not a market that you can predict; right?
22 So, therefore --

23 THE COURT: Oh, absolutely. Yeah --

24 MR. WHITE: Therefore, we have a market
25 that has been set. So you assume that we would lose

1 the entire market. Right? You don't assume 50, 30.
2 You assume that it's either you have the market now,
3 or you have no market. So the value is 9.75, and
4 that's where we're at today. So we're at risk of
5 losing all of it.

6 MR. TAYLOR: Your --

7 MR. WHITE: We can --

8 MR. TAYLOR: Your Honor --

9 MR. WHITE: We can transact on that.
10 We can't transact on a future value that no one knows.

11 THE COURT: You and I may have to agree
12 to disagree on --

13 MR. WHITE: Okay.

14 THE COURT: -- this property would go
15 to zero. You know, there'd be some takers at a
16 dollar, I can tell you.

17 MR. TAYLOR: Your Honor.

18 THE COURT: Yes.

19 MR. TAYLOR: Your Honor, if I may just
20 one second. Judge, I think that it would be
21 appropriate to take a step and to talk for a second
22 about the overall historic aspect of why this
23 supersedeas bond statute rule is in place. And what
24 it is in place for, Judge -- I know I don't need to
25 remind the Court, but I like to remind everybody -- is

1 that the legislature and the court system came
2 together and said, once a full Circuit Court trial has
3 been set and once it has gone through and once a order
4 has been entered, then it is presumed, until
5 overturned, that that order is correct. And in order
6 to secure that, we're going to post a high bond
7 requirement because if someone who loses in Circuit
8 Court wants to continue on and delay things by two
9 more years, then they must go and bear the burden of
10 the responsibility of insuring that.

11 And such I assume -- and speaking on
12 behalf of the plaintiffs, I agree that there's very
13 little chance that property would go to zero. But it
14 is within this Court's discretion -- and I would urge
15 the Court to err on the side of protecting all of the
16 property owners, including Mr. Houston's people, and
17 require at least a 50 percent amount, Judge, which
18 would be \$4,850,000. Because to do anything less than
19 that and require them to not put anything substantial
20 will only continue to encourage the behavior of
21 stopping everything they can by filing every single
22 motion they can. With the respect that I have for
23 Mr. Houston after many years of knowing him, there's
24 no other way to put it but that that is the strategy
25 in this case. And clearly, that is exactly what they

1 intend to do is try to wait this out until such time
2 as somebody offers to make a deal with them. And it's
3 not right.

4 Judge, you've heard the evidence.
5 You've entered your order. And if they want to put a
6 stay on this case and stop us from completing the
7 sale, they need to put up a serious bond.

8 THE COURT: Okay. All right. I think
9 I got the big picture.

10 MR. HOUSTON: Your Honor.

11 THE COURT: Yes, sir. I'll give you
12 one quick, final word, Mr. Houston. Mr. Houston?

13 MR. HOUSTON: Okay. Another factor
14 that, in this statutory scheme that the legislature
15 has provided for has been also the financial posture
16 of the party seeking the supersedeas bond. You know,
17 if a defendant is well-heeled, in the statute which
18 Counsel had cited before, they're required to pay more
19 than the maximum. But if they don't fall in that
20 category, the statutory scheme is that they would pay
21 a lower amount because the Court looks at the welfare
22 of the person who is required to put up the
23 supersedeas bond.

24 MR. TAYLOR: Judge, you can't tell me
25 that I'm absolutely wrong on the statute --

1 MR. HOUSTON: So --

2 MR. TAYLOR: -- rely on.

3 MR. HOUSTON: -- just taking an
4 arbitrary calculation between full and zero and set it
5 at 50 is basically not appropriate. There's no sound
6 basis that the property would, within the course of a
7 year and a half, diminish from the present appraised
8 value down to zero --

9 THE COURT: I don't think it's going to
10 zero. I don't disagree with you there.

11 MR. HOUSTON: And I don't think it's
12 going to go to half. There's no --

13 THE COURT: I would've said that --

14 MR. HOUSTON: -- drop 50 percent in
15 value. If anything, it's going to go up.

16 THE COURT: You know, historically,
17 there are plenty of drops. But --

18 MR. HOUSTON: -- you know, because of
19 its uniqueness, the value is going to go up. There is
20 no more waterfront property on Hilton Head.

21 THE COURT: All right. Well, let me do
22 this. Y'all have given me stuff to consider, and I've
23 got something after this. And I've got to deal with
24 that and some other things. But I will try to get
25 back with y'all by the end of the day Monday with

1 something on this. I know that time is of the essence
2 for all parties. And --

3 MR. WILLIAMS: And there's still one
4 other outstanding motion there, Your Honor.

5 MR. TAYLOR: Your Honor, I realize,
6 Your Honor, that you need to move forward. Judge, can
7 we just --

8 THE COURT: It was the flip side of the
9 other motion; right? It's either grant a supersedeas,
10 set a bond, or issue the master's deed; right? I
11 mean, I'm happy to hear it. But I mean, it's --

12 MR. WILLIAMS: That's a fair way
13 to -- yes.

14 MR. TAYLOR: Judge, I don't mean
15 to -- I don't mean to take up your time. If you will
16 just review the motion filed on March the 14th of 2020
17 requesting it. You're exactly right, Your Honor.
18 That is the position.

19 THE COURT: Okay. I mean, I don't mean
20 to shortchange --

21 MR. HOUSTON: Your Honor --

22 THE COURT: It's a coin flip; right? I
23 mean, it's one or the other.

24 MR. TAYLOR: Yes, Your Honor.

25 THE COURT: All right. Any --

1 MR. HOUSTON: Your Honor, before you
2 rule on that other motion in reference to the master's
3 deed --

4 THE COURT: Yes, sir.

5 MR. HOUSTON: -- I will have a
6 memorandum in to you probably by tomorrow or next day.
7 But the salient point I want to make in reference to
8 that is that there's no statutory provision granting a
9 Master in Equity authority to grant a master's deed in
10 an action to quiet title, which this one is. Now
11 there is one code section --

12 MR. WILLIAMS: No.

13 MR. HOUSTON: -- under the section of
14 partitioning that does permit that. But that's only
15 when the action is just for partition. So here, where
16 the action is to quiet title, there are other
17 procedural requirements that have to be met. And
18 there's nothing under this section that gives any
19 authority to a Master in Equity to issue a master's
20 deed. You know, most of the times in partition
21 action, the parties may have a fee simple title
22 already. Or it's just a matter dividing -- making a
23 physical division of the land. But this is an action
24 to quiet title in which a further finding has to be
25 made --

1 THE COURT: Okay.

2 MR. HOUSTON: -- on the action to quiet
3 title, there's no statutory authority for the Master
4 in Equity to grant a master's deed.

5 MR. TAYLOR: And, Your Honor --

6 THE COURT: Go ahead.

7 MR. TAYLOR: -- our position is, that's
8 just wrong, that the Pinckney Act clearly provides
9 that, once the statutory scheme has gone through, once
10 the minority owners have been given the opportunity to
11 purchase the majority owners' interest out and that
12 time has past, which it undoubtedly has here, that the
13 only way to then implement the Pinckney Act scheme is
14 for the judge to enter and be willing to sign the deed
15 as we have asked. And we would, once again,
16 Your Honor, ask the Court to do that.

17 MR. WILLIAMS: Yeah. And if I may,
18 Your Honor --

19 MR. HOUSTON: No, you're not going
20 to --

21 MR. WILLIAMS: Mr. Houston --

22 MR. HOUSTON: No, you're not going to
23 find any language to that --

24 MR. WILLIAMS: If I may --

25 MR. HOUSTON: -- Act.

1 THE COURT: Okay. Hold on one
2 second -- Mr. Williams is talking. Then I'm happy to
3 hear from you, Mr. Houston.

4 MR. HOUSTON: Go ahead and proceed,
5 Chet. Go ahead and proceed.

6 MR. WILLIAMS: Your Honor, Mr. Houston
7 simply is wrong. This is an action to do two things:
8 It was initially filed to quiet title and to partition
9 the property. The quiet title was solved back in May
10 of last year. That issue was resolved, and all we're
11 dealing with now is the partition. And clearly in the
12 context of partition, you have the ability to issue a
13 master's deed to resolve that partition. Thanks.

14 THE COURT: All right. Well, let's do
15 this: Charles, you said --

16 MR. HOUSTON: Your Honor. Your Honor,
17 there is -- title property was not resolved. It still
18 is title property.

19 THE COURT: Okay. Well, let's do this.
20 Charles, I understand -- you wanted to draft something
21 and said you'd get it in today or tomorrow. Is that
22 right?

23 MR. HOUSTON: Yes. Right.

24 THE COURT: Okay. And then I'm sure
25 the other side would like a quick response to that,

1 which I assume I'd get before --

2 MR. HOUSTON: But this is a
3 rebuttal -- this is a rebuttal to their brief. That's
4 what it is.

5 THE COURT: Oh, okay. Well, let's do
6 this.

7 MR. HOUSTON: While you may not have
8 seen it yet, but yesterday evening, they submitted a
9 memorandum in support of their motion. And I was
10 going to --

11 MR. TAYLOR: That's not right, Judge.
12 The memorandum was only an opposition to Mr. Houston's
13 motion. It did not address the master's deed because
14 he has not objected to that before right now.

15 THE COURT: Why don't we do this,
16 Mr. Houston? You're going to send me something on the
17 master's deed authority, and I understand that --

18 MR. HOUSTON: Correct.

19 THE COURT: -- the other side will
20 submit something solely on that particular topic --

21 MR. TAYLOR: Yes, sir.

22 THE COURT: -- in response. I had said
23 I'd try to get something done by Monday afternoon.
24 Why don't we see if y'all can get me whatever you're
25 going to get in response to whatever Mr. Houston's got

1 Monday if you can. And then I'll try to deal with
2 this Tuesday or Wednesday or so. But as soon as
3 possible. All right. Anything else we can do for
4 this record then?

5 MR. TAYLOR: Not on behalf of the
6 petitioners, Judge.

7 MR. WILLIAMS: Thank you, Your Honor.

8 THE COURT: Thank you.

9 All right. Mr. Houston, anything else,
10 sir?

11 MR. HOUSTON: I think that much more
12 could be said, but I think enough has been said with
13 the time we have allotted, Your Honor. And I think
14 that both sides have been able to convey to you their
15 salient arguments.

16 THE COURT: All right. I appreciate
17 it. As usual, in any case that's contested, I always
18 encourage the parties to see if there's some way to
19 get together and resolve the whole thing. If not, I
20 understand completely. And I will await Mr. Houston's
21 memo and then the response to that and try to get on
22 it as quickly as possible. Y'all have a --

23 MR. HOUSTON: And also --

24 THE COURT: Yes, sir.

25 MR. HOUSTON: Your Honor, you also said

1 you would review the sufficiency of this alleged
2 contract.

3 THE COURT: That was sent to me, and I
4 will take a look at it. So thank you so much.

5 All right. Y'all have a good day.
6 Thank you so much.

7 (Whereupon, at 11:50 a.m. EDT/
8 10:50 a.m. CDT, the proceeding was
9 concluded.)

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CERTIFICATE OF DEPOSITION OFFICER

I, SOPHIE CAUDLE, the officer before whom
the foregoing proceedings were taken, do hereby
certify that any witness(es) in the foregoing
proceedings, prior to testifying, were duly sworn;
that the proceedings were recorded by me and
thereafter reduced to typewriting by a qualified
transcriptionist; that said digital audio recording of
said proceedings are a true and accurate record to the
best of my knowledge, skills, and ability; that I am
neither counsel for, related to, nor employed by any
of the parties to the action in which this was taken;
and, further, that I am not a relative or employee of
any counsel or attorney employed by the parties
hereto, nor financially or otherwise interested in the
outcome of this action.

September 27, 2022



SOPHIE CAUDLE

Notary Public in and for the

State of Texas

CERTIFICATE OF TRANSCRIBER

I, EMILY LOFING, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

September 27, 2022

A handwritten signature in black ink, appearing to read "Emily Lofing", with a stylized, cursive script.

EMILY LOFING

[& - amounts]

&	26504 45:14	9.75 21:5 33:3	additionally
& 3:20	27 44:16 45:12	90 9:18	9:15
0	270 8:9,13 12:21	9th 19:5	address 20:14
07-02301 1:13	27073 44:16	a	41:13
6:3	29926 3:22 4:10	a.m. 2:3,3 6:5,7	addressed 23:11
1	29928 3:8	43:7,8	affirm 20:20
1000 4:9	29938 3:15	ability 40:12	affirmatively
10:03 2:3	3	44:10 45:7	16:16
10:30 6:5	30 33:1	able 9:18 10:1	afternoon 19:1
10:50 43:8	35 3:21 32:3	18:18 22:20	41:23
11:03 2:3 6:7	38 16:13	42:14	agenda 6:23
11:50 43:7	4	absolutely 23:5	agent 1:10
14th 37:16	4,850,000 34:18	24:5 32:23	ago 24:21 25:16
15 2:2	40 20:25	35:25	agree 7:8,12
15th 6:5	5	accepted 25:5	11:14 33:11
16-12-70 14:21	50 20:25 29:19	28:23	34:12
16-6-270 8:1	30:19 33:1	accomplish	agreed 20:6
170 21:12 29:24	34:17 36:5,14	17:22	ahead 10:10
17th 19:6	5466494 2:8	accurate 44:9	11:16 12:1 16:1
18-9-130 20:15	6	45:5	23:3 26:13
18-9-17 20:17	6 10:25	accuse 22:25	31:25 39:6 40:4
180 27:18	60 9:18	accused 12:4	40:5
2	6028 3:14	act 39:8,13,25	al 6:3,4
200 3:21 4:9	7	action 1:12	alive 23:8
2008/2009 29:19	70 14:21	11:12 18:19	allbright 1:18
2020 1:13 6:3	75 15:12	22:4,5,7,13,14	4:5
37:16	75201 2:6	22:17,20,23	allegations
2022 2:2 9:10	785-5050 3:10	38:10,15,16,21	24:25
19:6,6,9 44:16	8	38:23 39:2 40:7	alleged 22:14
45:12	842-5411 3:17	44:12,16 45:8,12	26:8 43:1
22 3:7	843 3:10,17	actions 18:13,14	allotted 42:13
22nd 18:12	9	23:9	alternative 6:13
23 19:9	9,750,000 16:19	activity 8:17	amount 9:9
240 8:9	20:2,23	add 11:5 24:9	14:20 26:24
241 19:7,18		addenda 27:22	31:22 34:17
20:12		additional 9:9	35:21
		9:18	amounts 23:12

[andre - certificate]

andre 4:14 announcement 9:11 answer 30:20 anymore 7:4 20:8 27:24 apologize 14:10 appeal 6:14 8:19 8:23 10:3 15:1 19:4,13 24:15 appeals 14:22 19:5,8,9,13,16 19:17 21:6 24:15 applicable 29:4 29:24 apply 8:11 19:20 appraised 36:7 appreciate 15:23 29:9 32:16,17 42:16 appropriate 7:13 20:18 33:21 36:5 arbitrary 36:4 arguably 20:17 arguing 29:8 argument 15:5 15:20 arguments 24:14 42:15 asked 9:17,19 19:14 39:15 asking 19:7 aspect 33:22 assertion 23:5 assume 7:5 12:9 14:1 32:12,25	33:1,2 34:11 41:1 assumed 31:2 attached 11:1 13:21 attempted 20:14 attention 9:5 12:20 16:23 attorney 1:10 44:14 45:10 audio 6:9 44:8 45:3 authority 38:9 38:19 39:3 41:17 automatic 19:8 19:18 await 42:20 aware 19:3	behalf 3:2 4:2 16:11,15 19:20 24:25 34:12 42:5 behavior 34:20 believe 9:8 11:6 29:23 benefit 20:4,14 26:23 28:24 best 44:10 45:6 bet 30:19 big 35:9 bit 6:6 20:12 biting 24:17 bizarre 25:7 bond 6:13,14 8:13,14 9:1,19 14:17 18:25 21:3,4 29:11,22 30:7 31:10 33:23 34:6 35:7 35:16,23 37:10 bonded 19:23 bonds 8:12 bottom 31:12 bounce 13:25 bow 3:7 box 3:14 brevity 16:3 brief 7:22 8:5 12:18 16:3,6 20:16 41:3 briefs 7:20 bring 9:5 12:19 22:13 bringing 22:17 broker 32:9	brooks 3:20 budgeted 15:12 built 15:17,19 burden 34:9 buyer 11:12,13 27:19 28:7 buying 31:4 buying's 31:6
	b		c
	b 5:1 back 9:7,17 14:1 17:18 29:8 36:25 40:9 bad 15:18 bag 28:9 banter 29:9 barbara 1:5 3:2 4:15 based 7:6 basically 8:1,13 14:17 15:8 17:23 36:5 basis 36:6 bear 34:9 beaufort 1:1 29:20		c 3:1,5,6,13 4:1,9 6:1 calculation 36:4 call 11:25 calling 32:9 calls 26:8 cancel 27:19,24 candid 7:19 carolina 1:1 25:4 carries 15:20 case 8:6 21:23 23:19 25:3,20 34:25 35:6 42:17 cases 25:21 category 8:6 35:20 caudle 2:7 44:2 44:18 cause 22:23 ccwlaw.net 3:16 cdt 2:3 43:8 center 3:21 certainly 17:1 29:17 30:22 certificate 44:1 45:1

[certify - court]

certify 44:4 45:2 chance 31:11 34:13 change 15:10 charles 1:16 4:4 4:7 13:7,19 27:7 28:16 40:15,20 cheryl 1:15 4:3 chester 3:12,13 10:22 chet 10:18 16:14 25:1 40:5 chouston 4:11 christopher 1:18 4:5 circle 3:7 circuit 1:3 34:2,7 cited 8:5 35:18 citing 7:23 21:12 civil 1:12 claim 11:25 clarification 7:1 clarify 28:22 clark 4:17 clear 16:13 clearly 34:25 39:8 40:11 client 9:24 12:5 clients 15:11 19:20 25:22 26:15,15 close 10:1,2 11:6 18:15,18 22:10 22:11 closed 29:2 closing 17:12,13 18:12	cms 7:2 code 20:13,18 38:11 coin 37:22 collateral 23:21 come 11:20 13:4 27:5 comet 30:12 coming 8:3 committed 20:20 common 1:2 29:14 commons 3:21 communicated 26:11,14 company 9:24 compared 8:22 comparisons 26:7 compel 13:2 complete 9:9 10:13 17:12 22:23 completed 8:24 completely 42:20 completing 35:6 conceivable 29:18 concerned 12:7 concluded 43:9 concrete 9:20 confession 23:20 confirm 17:5 conformed 9:7 consent 23:6,18 23:22,24,25 25:5	consented 24:21 consider 36:22 consideration 15:15,21 16:6 considered 26:22 cont'd 4:1 contained 18:2 contending 16:24 contested 42:17 context 40:12 contingencies 13:17 18:1 28:2 28:6 continue 34:8,20 continuing 20:1 contract 9:10,11 9:12,13,23 10:4 10:13,14,17 11:1 11:11,14,20,21 11:23,25 12:1,7 12:10,24 13:3,4 13:7,14,16,16,16 13:21 14:2 16:12,17,19,24 17:11,11,13,15 17:25,25 18:2,4 20:23 21:6 25:16 26:8,17,19 26:24 27:16,20 27:21,22,24 28:3 28:4,14,16,20,25 30:10 31:3 43:2 controlled 20:11 controlling 7:23 8:1,9	controls 12:21 21:13 convey 42:14 conveyed 22:15 convict 23:20 copied 18:7,7,8,8 18:9 copies 10:6 copy 10:24,25 13:20 16:20 18:3,4 correct 6:24 11:9 17:7 21:16 34:5 41:18 counsel 21:12,15 21:16,22 22:21 28:11 35:18 44:11,14 45:7,10 county 1:1 29:20 course 25:17,21 27:25 36:6 court 1:2 6:2,19 6:25 7:14,18,19 7:21 9:2 10:8,16 10:20 11:2,15,18 11:21,24 12:8,25 13:5,8 14:7,8,11 14:23 15:3,22 16:1,7,16 17:14 18:3,20 19:3,5,7 19:9,13,15,17,21 20:3,7 21:2,6,8 21:10,16 23:3,13 23:16 24:7,14,23 25:11,19 26:3,9 26:13 27:7,12 29:7 30:5,9 31:6 31:15,17,25 32:4
--	--	---	---

32:8,16,23 33:11 33:14,18,25 34:1 34:2,8,15 35:8 35:11,21 36:9,13 36:16,21 37:8,19 37:22,25 38:4 39:1,6,16 40:1 40:14,19,24 41:5 41:15,19,22 42:8 42:16,24 43:3 court's 9:5 12:20 12:24 16:22 20:14 34:14 cover 8:14 30:7 cp 1:13 6:3 create 22:19 criminal 23:19 current 17:24	decide 19:21 decided 6:9 19:3 declare 19:8 deed 6:22 18:17 21:25 22:11,12 37:10 38:3,9,20 39:4,14 40:13 41:13,17 default 11:13 18:19 defendant 5:7 18:15 23:20 35:17 defendants 1:20 4:2 6:12,20 7:7 7:23 8:4 9:8 14:25 18:13 20:5 21:25 22:14,18 23:9 24:20 28:23 definitive 9:16 delay 20:9 34:8 delays 20:1 delivered 10:7 denied 19:9 denies 19:16 deny 21:2 denying 14:3 dependent 13:17 deposition 44:1 description 5:2,6 determine 32:15 development 15:7,8,12,16 diana 1:8 3:4 dictates 29:14 died 23:25	difference 8:21 different 8:12 difficult 14:8 difficulty 6:7 digital 44:8 45:3 dilatory 18:14 21:20 23:1,9 diligence 27:18 27:23 29:6 diminish 36:7 diminished 30:11 diminution 30:7 30:13,14 31:19 disagree 33:12 36:10 discovers 30:16 discretion 34:14 discussed 19:2 discussion 24:11 dismissed 15:2 distributed 23:15 dividing 38:22 division 38:23 document 7:3 12:3 documentation 11:7 doing 22:18 24:6 dollar 33:16 downturn 29:12 draft 40:20 draw 16:22 drop 29:17 36:14 dropped 31:22	drops 30:22 31:4 31:12 36:17 due 21:23 23:12 27:18,23 29:6 dukes 2:4 18:16 32:7,11 duly 44:5 dump 30:17 duty 7:19 dwell 16:4
d			e
d 6:1 dallas 2:6 damage 8:16 date 2:2 10:12 10:16 11:6 17:12,13 18:12 day 27:18 36:25 38:6 43:5 days 9:18 15:14 deadline 11:6,8 deal 16:12 35:2 36:23 42:1 dealing 8:24,25 14:22 40:11 deceit 24:25 deceitful 21:22 22:16			e 3:1,1 4:1,1 5:1 6:1,1 10:24 13:19 17:15,22 earlier 10:5 earsa 4:17 economic 15:6,9 economy 29:12 29:13 30:12,22 31:4 edt 2:3 43:7 either 33:2 37:9 ellen 1:6 3:3 emily 45:2,15 employed 44:11 44:14 45:8,11 employee 44:13 45:10 encourage 34:20 42:18 engaged 21:20 enter 13:3 39:14 entered 34:4 35:5 entire 19:2 30:2 33:1

[entitled - going]

entitled 18:24 environment 15:9 equation 27:5 equitable 26:1,6 equity 38:9,19 39:4 err 34:15 error 7:25 es 44:4 esquire 3:5,12 3:19 4:7,17 essence 26:20 37:1 established 14:20 estate 21:1 estates 22:8 23:6 23:10,13,14 et 6:3,4 evd 5:2,6 evening 7:22 41:8 event 9:17 everybody 12:8 23:24 33:25 everyone's 14:11 evidence 23:21 35:4 evidentiary 23:23 25:6 exactly 29:25 31:15 34:25 37:17 examination 27:25 exceeds 28:21	executed 11:1 20:24 exercisable 17:24 exercise 22:1 exercised 21:20 exist 28:5 existence 9:25 16:25 17:3 existing 16:17 exists 9:11 12:1 experience 16:14 expertise 32:17 expiration 11:5 explored 30:18 extended 15:11 extension 10:15 11:7 12:10 extensions 11:10	filed 6:22 7:10 7:22 13:23 18:25 19:4,5,6 37:16 40:8 filing 34:21 final 35:12 financial 35:15 financially 44:15 45:11 find 39:23 finder 17:21 finding 38:24 fine 6:10 finger 3:19,20 9:22,22 12:4 16:15 17:5,7 18:9 27:25 fingerlaw.com 3:23 finish 10:10 26:12 finished 13:9 27:8,9,10 finishes 17:17 firm 3:16 4:8 first 7:7,12,17 16:12 22:1 flip 37:8,22 focusing 18:23 foregoing 44:3,4 45:4 forever 25:15 formula 8:20 forth 8:21 13:4 17:18 29:8 forward 37:6 four 22:7 23:5 23:10 31:14	fourteenth 1:3 frame 9:16 frivolous 15:6,20 front 13:23 16:14 full 28:9 34:2 36:4 fully 11:1 further 38:24 44:13 45:9 future 33:10
			g
	fact 1:10 16:23 17:21 29:1,11,12 factor 15:6 35:13 factors 16:6 factual 7:20 factually 25:1 fair 37:12 faith 22:22 fall 35:19 far 22:6,9 26:6 fee 38:21 fell 29:19 fifty 31:13 figure 25:13 file 24:24		g 6:1 game 22:8 gary 1:14 4:3 georgia 1:5 3:2 4:19 getting 6:6 22:9 give 7:21 15:24 35:11 given 20:25 25:12 36:22 39:10 gives 38:18 giving 8:2 go 10:10 11:16 12:1,13 16:1 18:21 23:3,13 26:13 31:3,5,12 31:25 33:14 34:9,13 36:12,15 36:19 39:6 40:4 40:5 goes 29:13,13 30:21,22 32:12 going 8:2 9:3 15:16 17:21

[going - inferred]

19:19 20:5,9 22:4,10,12,12 25:12 30:15,18 34:6 36:9,12,15 36:19 39:19,22 41:10,16,25 good 6:2 15:19 16:10 22:22 43:5 grant 21:3 31:7 31:10 37:9 38:9 39:4 granted 14:24 19:22 granting 7:24 21:25 38:8 grants 18:17 great 24:18 greater 28:24 greatest 26:23 guaranteeing 19:12 guess 25:16 29:21	harm 14:25 harrison 1:5,6,6 1:7 3:2,3,3,3 4:15,19 6:3 head 3:8,15,22 4:10 15:17 30:12 32:2 36:20 hear 6:9,15 7:7,8 7:16 13:10 16:8 24:19 26:3 37:11 40:3 heard 7:12 10:14 35:4 hearing 2:1 19:25 23:23 25:6 heather 18:8 heeled 35:17 heirs 28:24 held 20:1 help 10:18 hereto 44:15 45:11 high 34:6 higher 20:25 hill 4:17 hilton 3:8,15,22 4:10 15:17 30:12 32:2 36:20 historic 33:22 historically 31:20 36:16 history 25:4 hitting 30:12 hedges 4:24	hold 8:1 12:9 13:8 40:1 holding 28:9 honest 7:19 honor 6:18 7:11 7:18 10:23 11:4 12:16 13:12,18 16:5,10,22 17:8 17:20 18:6,22,23 19:2,24 20:3,11 23:2,10,17,18 24:1,10,11,20 25:18,25 26:18 27:2,3,15 28:10 28:12 30:3,25 31:1,8,24 32:1 33:8,17,19 35:10 37:4,5,6,17,21 37:24 38:1 39:5 39:16,18 40:6,16 40:16 42:7,13,25 honorable 2:4 hospital 3:21 hour 16:21 houston 4:7,8 6:8,8,15,17,20 7:15,17 9:4 10:7 10:10,12,25 11:16,17,19 12:2 12:6,10,13,15 13:2,9,11,12,22 14:3,13,16,24 15:4,24 16:2,20 16:21 17:10,16 17:20 18:4,7,10 19:1,4,6,20 20:12,16 21:9,10 21:11 23:4,18	24:2,12,13 25:3 25:22,25 26:5,11 26:14,20 27:4,10 27:13,16 28:4,11 28:13,17,21 29:3 29:24 30:3,6,24 31:1,24 32:1 34:23 35:10,12 35:12,13 36:1,3 36:11,14,18 37:21 38:1,5,13 39:2,19,21,22,25 40:3,4,6,16,23 41:2,7,16,18 42:9,11,23,25 houston's 7:12 18:24 29:10 34:16 41:12,25 42:20 houstonlawfir... 4:11
h			i
h 2:4 5:1 half 24:21 36:7 36:12 halfway 22:25 hamptom 4:23 hand 18:24 handled 23:11 happy 6:15 7:16 13:10 16:8 37:11 40:2 hard 24:17			idea 16:25 identified 6:21 iii 1:7 2:4 3:4 implement 39:13 inappropriate 24:13,15 inception 22:7 including 34:16 inconceivable 29:16 incorrect 12:21 individual 7:3 individually 1:9 inferred 24:5,5

[initially - master's]

initially 40:8 input 32:16 instituted 22:24 insuring 34:10 intend 35:1 intent 18:1 22:6 intentions 22:4 interest 22:15 39:11 interested 44:15 45:12 interrupt 21:9 30:4 interrupting 9:23 involved 8:7,8 20:22 21:18 irrelevant 15:14 irreparable 14:25 island 3:22 issue 12:12,12 16:12,25 17:2 19:2 37:10 38:19 40:10,12 issued 9:7	20:15,19,21 24:18,19 32:7,11 33:20,24 34:17 35:4,24 37:6,14 39:14 41:11 42:6 judgment 8:7 21:13,14 judgments 8:5 judicial 1:3 june 19:9 jurisprudence 25:4,10	knowing 34:23 knowledge 44:10 45:6 knows 21:16 29:15,16 30:15 33:10	looked 25:17 looking 10:24 15:10 looks 35:21 lorraine 1:13 4:2 lose 32:25 loses 34:7 losing 33:5 lot 18:1 31:22 lower 8:12 35:21
	k	l	m
	kay 4:20 keep 9:2 10:2 17:18 28:15 keeps 27:16 28:4 keita 1:14 4:3 kirkland 1:13,14 1:15,16,17,18,19 4:2,3,4,4,4,5,6 6:4 knew 22:6 24:22 29:15 32:6 know 7:9 8:10 8:15 11:22,22 12:6 15:1,11 20:21 22:10,16 22:24,25 24:19 25:3,14,14 26:15 29:3 30:13,19,20 30:20 31:19 32:5,5,9 33:15 33:24 35:16 36:16,18 37:1 38:20	l.l.c. 3:6,13 4:8 lamont 1:14 4:3 land 8:14,25 9:24 20:2,10,21 20:24 38:23 language 39:23 late 6:7 latest 12:10 law 3:6,13 4:8 21:21 24:24 lawyer 21:17 lawyer's 12:2 learned 21:17 leave 28:8 left 28:2 legislature 34:1 35:14 lieu 23:23 25:5 light 7:21 20:19 likes 24:14 listening 9:2 little 6:6 20:12 34:13 living 23:8 32:8 location 2:5 lofing 45:2,15 logic 13:17 long 18:16 20:9 look 20:18 25:13 25:19 43:4	mail 10:24 13:19 mailed 17:15 mailing 17:22 main 4:9 maintain 19:24 major 15:16 majority 39:11 making 14:7 38:22 manner 21:22 march 13:7 18:12 19:5,6 37:16 marching 24:24 mark 4:21 22:25 marked 5:4,8 market 15:13 21:2 32:14,18,21 32:24 33:1,2,3 marvin 2:4 master 38:9,19 39:3 master's 6:22 18:17 37:10 38:2,9,19 39:4 40:13 41:13,17
j 4:15 jackson 4:17 11:4 18:8 january 9:8,17 10:25 13:20 job 2:8 jones 4:21 joyce 1:6 3:3 judge 16:12 17:9 18:16 19:17			

[matter - ownership]

matter 6:4 12:17 18:14 19:19 20:1 21:7 22:22 38:22 maximum 26:23 35:19 mean 15:16 26:21 29:13 30:1,1,16 31:20 37:11,11,14,15 37:19,19,23 means 25:13 31:18 med 32:9 melnick 3:20 memo 42:21 memorandum 19:1 38:6 41:9 41:12 mendheim 1:9 3:4 met 38:17 million 15:12 21:5 30:10 31:13,14 mind 25:22 minority 26:25 27:4 39:10 minute 25:16 misleading 7:25 misplaced 15:20 23:1 misrepresentat... 24:3 misrepresenting 12:5 moment 15:10 16:5	monday 36:25 41:23 42:1 money 8:5,7 21:14,15 26:7,16 26:24 months 19:15 31:5 moot 15:2 morally 25:2 morning 6:2 16:10,17 17:1 motion 6:12,12 6:21,22 7:7,12 10:3 12:14 13:10 16:23 18:17,23,24,24 19:7,9,16 20:11 20:13 21:2,3 24:13 29:11 34:22 37:4,9,16 38:2 41:9,13 motions 6:6,11 6:18 7:6,9 move 37:6 muted 10:20	new 27:18 nicole 1:15 4:3 nine 30:10,23 31:13 nominal 6:14 8:25 14:20 21:3 29:22 notary 2:7 44:19 noted 7:1 notice 19:4 number 8:2 26:23 30:1,2 31:20	27:12 33:13 35:8,13 37:19 39:1 40:1,19,24 41:5 once 14:12 17:17 17:19 34:2,3,3 39:9,9,15 ones 8:4 open 7:3 23:6,10 operation 30:11 opportunity 39:10 opposition 13:10 16:9 41:12 order 7:9 8:10 9:6,7,12,13,15 9:20,20 12:24 19:8 21:5,18 22:9 23:6,19,23 23:24 24:23 25:5 34:3,5,5 35:5 ordered 20:7 ordering 21:4 ordinarily 7:8 outcome 44:16 45:12 outlined 12:18 outstanding 6:6 6:11 22:8 37:4 overall 33:22 overturned 34:5 owners 23:7 28:8 34:16 39:10,11 ownership 20:7 24:21 25:23
		o	
		o 6:1 objected 41:14 objection 12:9 occupying 8:16 occurred 21:1 october 9:8 offense 24:4,18 offer 26:17,24 28:14,18,23 31:14 offered 26:7,24 28:13 offers 35:2 office 3:6,13 officer 44:1,2 oh 16:1 32:23 41:5 oil 32:19 okay 6:19 7:14 7:17 9:4 10:8 11:2,15,17 12:8 12:25 13:5 18:20 21:18	
	n		
	n 3:1 4:1 6:1 natural 8:18 nature 7:6 21:17 24:3 need 33:24 35:7 37:6 neither 11:11 18:18 44:11 45:7 never 10:13 27:17 28:6		

[p - protects]

p p 3:1,1 4:1,1 6:1 particular 8:6 16:4 41:20 parties 7:8 10:4 37:2 38:21 42:18 44:12,14 45:8,11 partition 38:15 38:20 40:8,11,12 40:13 partitioning 38:14 party 18:18,19 35:16 paul 1:17 4:5 paulette 1:17 4:4 pay 26:8 35:18 35:20 payment 21:14 21:15 pendency 8:19 pending 6:14 19:13 22:20 people 20:22 23:25 26:23 34:16 percent 20:25 25:24 29:19 30:19 32:3 34:17 36:14 percentage 25:23 26:1 27:14 percentages 20:7 26:5,21 period 15:11 27:19 28:7	periods 27:23,25 29:6 permit 21:25 38:14 person 17:21 35:22 perspectives 17:4 pertaining 7:23 pertains 8:5 petitioners 42:6 petitioning 16:11 physical 38:23 picture 35:9 pinckney 39:8 39:13 place 10:4 27:21 30:17 33:23,24 places 29:21 plaintiff 4:15,19 5:3 plaintiffs 1:11 3:2 6:22 9:6,25 15:4 16:11,15,18 20:4 21:22 22:21 25:1 34:12 plan 22:8 planned 15:18 plc 4:17 pleas 1:2 please 10:11 12:14 18:5,21 23:3 26:12,13 27:2 plenty 36:17	plus 12:18 po 3:14 point 7:18 9:4 11:10 12:16,16 17:10 23:7 24:16 25:24 27:11 29:14 32:12 38:7 points 12:17,18 12:19 16:2 popped 25:15 position 18:15 37:18 39:7 possible 16:13 42:3,22 post 9:19 34:6 posted 31:10 posting 19:11 posture 35:15 potential 15:1 32:13 practical 29:10 practice 21:20 23:1 predict 32:21 prejudice 15:5 prepared 45:3 present 4:13 8:21 17:25 26:17 36:7 preserved 8:18 presumed 34:4 previous 29:20 previously 16:20 20:6 price 20:3,6 30:10 32:2	print 8:3 prior 10:7 17:2 44:5 probably 15:7 20:24 29:18 38:6 probated 23:14 procedural 38:17 proceed 6:9,10 40:4,5 proceeded 21:23 proceeding 2:5 21:24 22:23 43:8 45:4 proceedings 44:3,5,6,9 45:6 process 8:23 20:23 21:24 produce 9:19 producing 12:3 proffering 21:15 property 8:11,15 8:17,18,22 15:13 16:19 19:12 21:5,18 22:15 23:8,12 28:8 29:17 30:2 31:4 31:6,13 32:2 33:14 34:13,16 36:6,20 40:9,17 40:18 proposed 28:25 prospective 27:19 protecting 34:15 protects 29:22
--	---	--	--

[provide - rule]

provide 18:11 provided 10:13 11:5 14:6 16:20 16:21 17:2 35:15 provides 20:18 27:18 39:8 provision 38:8 provisions 14:20 public 2:7 44:19 purchase 18:1 39:11 pursuant 19:7 19:17 20:6 pursued 22:22 put 9:15 11:12 18:19 20:2 34:19,24 35:5,7 35:22	quoted 8:8	regard 29:10 registry 23:13 related 44:11 45:7 relative 44:13 45:10 relief 19:10 rely 36:2 remember 29:18 31:21 remind 20:3 33:25,25 remote 2:5 rendering 21:4 reported 2:7 reporter 14:8 represent 25:22 representations 7:20 represented 16:16 representing 24:20 request 14:18 requested 9:9 10:15 22:1 requesting 37:17 require 34:17,19 required 8:13 19:11 25:6 35:18,22 requirement 14:18 34:7 requirements 38:17 resolve 12:11 40:13 42:19	resolved 8:24 40:10,17 respect 34:22 response 21:11 40:25 41:22,25 42:21 responsibility 34:10 review 17:24 37:16 43:1 right 7:2,15 8:2 10:8 12:15,25 14:4,23 15:3,22 16:8 17:9 18:21 20:25 21:10,21 22:1 24:22 27:22 29:7,25 30:9,10 32:13,21 33:1 35:3,8 36:21 37:9,10,17 37:22,25 40:14 40:22,23 41:11 41:14 42:3,9,16 43:5 rights 26:2,6 risk 9:23 20:2 31:2,16,17 33:4 risks 31:9 risky 31:6 robert 4:22 roberts 1:8 3:4 rose 4:23 rotunda 9:24 16:18 27:21 28:2,25 29:6 31:11 rule 19:7,18 20:12 21:7
	r		
qualified 44:7 question 11:19 12:23 20:8,9 26:9 29:10 30:14 quick 35:12 40:25 quickly 42:22 quiet 22:5,13,14 22:17 38:10,16 38:24 39:2 40:8 40:9 quieted 23:7 quitclaim 22:11 22:12 quote 20:16	r 3:1 4:1 6:1 raised 17:3 20:13 raising 11:19 27:13 raw 8:25 read 16:5 25:12 ready 10:1 31:3 real 21:1 31:9 realize 37:5 really 9:1 14:8 29:16 30:15 reasonable 14:17 rebuttal 41:3,3 recall 27:18 receive 28:25 received 12:20 recession 31:21 32:2,5 reconsideration 19:14,16 record 13:24 24:11 42:4 44:9 45:5 recorded 44:6 recording 44:8 45:4 reduced 44:7 reference 7:22 15:24 38:2,7 referenced 10:5 referring 11:7 refusal 22:2	regard 29:10 registry 23:13 related 44:11 45:7 relative 44:13 45:10 relief 19:10 rely 36:2 remember 29:18 31:21 remind 20:3 33:25,25 remote 2:5 rendering 21:4 reported 2:7 reporter 14:8 represent 25:22 representations 7:20 represented 16:16 representing 24:20 request 14:18 requested 9:9 10:15 22:1 requesting 37:17 require 34:17,19 required 8:13 19:11 25:6 35:18,22 requirement 14:18 34:7 requirements 38:17 resolve 12:11 40:13 42:19	resolved 8:24 40:10,17 respect 34:22 response 21:11 40:25 41:22,25 42:21 responsibility 34:10 review 17:24 37:16 43:1 right 7:2,15 8:2 10:8 12:15,25 14:4,23 15:3,22 16:8 17:9 18:21 20:25 21:10,21 22:1 24:22 27:22 29:7,25 30:9,10 32:13,21 33:1 35:3,8 36:21 37:9,10,17 37:22,25 40:14 40:22,23 41:11 41:14 42:3,9,16 43:5 rights 26:2,6 risk 9:23 20:2 31:2,16,17 33:4 risks 31:9 risky 31:6 robert 4:22 roberts 1:8 3:4 rose 4:23 rotunda 9:24 16:18 27:21 28:2,25 29:6 31:11 rule 19:7,18 20:12 21:7
	q		

[rule - substantial]

33:23 38:2 ruled 19:17 run 25:21 27:23 27:25 29:6	seen 41:8 sell 20:10 21:18 22:9 31:12 seller 11:12,13 send 41:16 sending 12:10 sense 7:7 29:14 31:2 sent 10:24 13:20 14:4 18:7 25:16 43:3 september 2:2 6:5 9:10 44:16 45:12 serious 35:7 set 29:11 32:25 34:3 36:4 37:10 sets 8:20 seven 31:13 share 20:5 shawn 1:19 4:5 shortchange 37:20 show 13:13,15 shown 15:5 side 29:6 34:15 37:8 40:25 41:19 sides 11:24 29:4 42:14 sign 18:17 39:14 signature 44:16 45:14 signed 11:21 27:17,17 28:6 simple 38:21 simply 13:6 23:4 40:7	single 34:21 sir 6:16 7:16 9:2 11:18 12:14 13:1,11 14:15 15:23 16:7 23:3 24:10 26:4,13 31:25 35:11 38:4 41:21 42:10,24 situation 21:13 23:22 skills 44:10 45:6 small 8:3 26:25 sold 23:12 solely 41:20 solved 40:9 somebody 25:16 30:16 35:2 someone's 31:14 soon 42:2 sophie 2:7 44:2 44:18 sorry 26:3 sorts 28:6 sought 19:10 sound 36:5 sounds 27:8 south 1:1 25:4 speaking 34:11 speaks 9:12 specifically 19:10 specify 17:13 spill 32:19 spirited 29:9 standard 12:22 standards 8:11	stanley 1:8 3:4 start 6:7 27:9 state 1:1 8:18 27:22 44:20 stated 19:10 24:5 statute 7:23,25 8:8,20 12:21 14:21 21:12 30:6 33:23 35:17,25 statutes 25:12 statutory 25:6 35:14,20 38:8 39:3,9 stay 6:12 7:24 18:25 19:8,18 35:6 step 33:21 stephanie 1:13 4:2 steps 18:19 stock 15:13 21:1 stop 35:6 stopped 22:24 stopping 34:21 stops 22:18 strategy 34:24 street 4:9 strongly 19:25 stuff 36:22 subject 15:10 submit 41:20 submitted 17:23 41:8 substantial 15:21 34:19
s			
s 1:7 3:1,3 4:1 5:1 6:1 safe 30:19 sale 8:11 16:18 17:12 20:2,6 35:7 sales 20:24 salient 12:17,19 38:7 42:15 saying 14:4 26:21 28:15 32:21 says 13:2 25:10 sc 3:8,15,22 4:10 scheduled 6:4 scheme 35:14,20 39:9,13 scroll 7:4 second 9:4 12:9 13:8 21:19 22:3 33:20,21 40:2 section 14:21 20:15,18 38:11 38:13,18 secure 21:5,6 34:6 see 6:12 7:4 17:24 25:15 26:16 41:24 42:18 seeking 35:16			

[substantiate - type]

substantiate 12:24 substitute 23:22 subterfuge 23:19 24:3 suffer 14:25 sufficiency 43:1 suggest 25:9 suite 3:7,21 4:9 supersedeas 6:13 7:24 8:12 9:1 14:17,18 18:25 19:21,22 31:10 33:23 35:16,23 37:9 support 41:9 sure 8:2 13:9 14:14 29:20 30:5,17 40:24 sureties 19:11 surety 20:19 sworn 44:5 system 7:2 34:1	talking 14:16 15:7 20:15 27:16 28:5 40:2 taylor 3:5,6 7:11 10:6,18,21 16:10 16:11 17:9,17 18:9,21,22 23:17 24:1,1,8,10 25:7 25:24 28:10,12 30:25 33:6,8,17 33:19 35:24 36:2 37:5,14,24 39:5,7 41:11,21 42:5 tell 14:15 17:16 17:17 27:7,9 33:16 35:24 ten 15:7 tentative 11:23 terms 9:21 terry 3:19 9:22 16:15 testifying 44:5 texas 44:20 tfinger 3:23 thank 6:25 7:14 10:8 11:2,15 12:25 14:23 15:22 16:7 18:10,20,22 23:16 24:7 27:12 28:9 42:7 42:8 43:4,6 thanks 40:13 thing 7:17 10:14 21:19 22:3 24:22 26:22 27:14 31:21	42:19 things 29:19 31:18,22 34:8 36:24 40:7 think 6:18,21,23 8:8,9 11:5 14:21 15:19 17:23 18:12 29:18,22 30:4,7,21 31:9 31:18,20 32:18 33:20 35:8 36:9 36:11 42:11,12 42:13 third 12:16 thomas 3:5,6 thomastaylorla... 3:9 thoughts 30:21 30:23 three 31:5 throwing 24:12 24:24 thursday 2:2 time 2:3 8:22,23 9:9,16 10:2 11:22 15:11,18 16:3 20:24 23:6 28:7 31:12 35:1 37:1,15 39:12 42:13 times 15:18,19 38:20 title 22:5,13,14 22:17,19 23:7 27:24 28:1 38:10,16,21,24 39:3 40:8,9,17 40:18	today 6:5,23 15:13 33:4 40:21 told 14:14 tom 3:9 16:11 24:1 tomorrow 38:6 40:21 tongue 24:17 topic 41:20 topics 24:12 toxic 30:17 transact 33:9,10 transactions 10:5 transcriber 45:1 transcript 45:3,5 transcriptionist 44:8 trial 34:2 tried 23:22 trouble 7:2 true 13:7 44:9 45:5 try 17:18 25:12 25:13,14 35:1 36:24 41:23 42:1,21 trying 6:8 14:8 tuesday 42:2 turn 10:21 twelve 15:8 two 6:17 12:17 12:19 19:11,15 34:8 40:7 tx 2:6 type 21:3
t			
t 1:17 4:5 5:1 take 14:11 16:6 22:6,9 24:4,18 25:19 33:21 37:15 43:4 taken 11:12 15:15 18:18 20:19 44:3,12 45:9 takers 33:15 talk 12:2 33:21 talked 20:12,16			

typewriting 44:7	4:7,16,18,19,20	we've 10:13,14	x
tyrone 4:24	4:21,22,23,24	26:7 30:9	x 5:1
u	violation 21:24	wednesday 42:2	y
underhand 24:6	voices 14:12	weight 15:21	y'all 7:9 10:16
understand	void 11:23	welfare 35:21	13:8 18:3 25:12
17:15 40:20	voidable 9:14	white 1:15 4:3	25:14 29:8,9
41:17 42:20	volume 10:21	4:14,20 32:7,11	30:20 36:22,25
undertaking	vs 6:3	32:17,20,24 33:7	41:24 42:22
31:7	w	33:9,13	43:5
undeveloped	wait 35:1	william 1:7,16	yacht 32:8
8:15	waiting 10:1	3:3 4:4	yeah 10:23 14:7
undoubtedly	18:16	williams 3:12,13	15:4 25:9 27:6
39:12	waived 14:19,19	10:23 11:3,9	31:8 32:23
uniqueness	waiver 6:13	13:6,18,25 14:5	39:17
36:19	18:25	14:10 16:14	year 10:25 24:21
update 28:1	walk 28:7	18:6,11 23:2,4	36:7 40:10
urge 21:2 34:14	walks 31:11	24:4 25:9,18	years 15:8,8
use 8:22 29:24	want 7:18 9:5	26:18 27:2,6,15	16:13 34:9,23
usual 42:17	12:19 13:13	28:15,19 29:1,5	yesterday 7:22
usually 15:18	14:14,14 16:4	31:8,16 37:3,12	19:1 41:8
v	17:17 24:18,19	38:12 39:17,21	young 4:22
v 1:12	26:7 28:1 35:5	39:24 40:2,6	z
vague 9:6	38:7	42:7	zero 29:17 30:1
valid 9:11,12,13	wanted 22:19	willing 10:1	30:16,22 32:13
9:23 11:11,14	24:9 40:20	31:14 39:14	33:15 34:13
12:23 13:15	wants 29:24 34:8	wish 29:15	36:4,8,10
16:17,24 17:4	waste 8:14 20:20	witness 44:4	
validity 11:20	25:13 29:23,23	word 16:24	
value 8:21 29:20	30:17 31:18	29:24 35:12	
30:2,8,10,11,13	wasted 19:12	worse 29:21	
30:14 31:4,19	wasteful 20:22	would've 36:13	
33:3,10 36:8,15	waterfront	writing 7:20	
36:19	36:20	19:11	
vaux 24:20	way 6:10 23:11	wrong 21:12	
verbal 12:7	34:24 37:12	23:5 25:1,2	
videoconference	39:13 42:18	35:25 39:8 40:7	
2:1 3:5,12,19			

South Carolina Rules of Civil Procedure

Part V. Depositions and Discovery

Court Rule 30

(e) Submission to Witness; Changes; Signing.

When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the court holds

that the reasons given for the refusal to sign
require rejection of the deposition in whole or in
part.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE # 2020-CP-07--2301

**GEORGIA HARRISON, BARBARA HARRISON,
JOYCE ELLEN HARRISON, WILLIAM S.
HARRISON, III, STANLEY ROBERTS AND
DIANA MENDHEIM INDIVIDUALLY AND AS
AGENT AND ATTORNEY IN FACT,
Plaintiffs,**

V

**DEFENDANTS' MOTION
FOR STAY AND WAIVER OF
SUPERSEDES BOND OR IN
THE ALTERNATIVE A
NOMINAL BOND PENDING
APPEAL**

**STEPHANIE LORRAINE KIRKLAND, GARY
LAMONT KIRKLAND, KIETA NICOLE WHITE,
AND CHERYL KIRKLAND,**

Defendants.

**To: Thomas Heyward, Esq.; and Chester C. Williams , Esq. Attorneys for
Plaintiffs:**

The Defendants, through their undersigned counsel, would respectfully move this Court pursuant to S.C. Code Ann. §18-9-170; Rule 241 (a) (b) (4) and (c) (1) (2) (3) (4) SCRAP ; Rule 62 (a) (b) (d)(e)and(f) to enter an Order staying the enforcement and suspending its Order filed on October 20, 2021 and waiving the necessity of the Defendants' posting a supersedeas bond or in the alternative, ordering and setting a nominal bond amount pending Defendants'/ Appellants' appeal taking in this case.

THE RELIEF REQUESTED SHOULD BE GRANTED UPON THE FOLLOWING GROUNDS:

1. Substantial likelihood on the merits
2. Irreparable harm
3. No harm to parties
4. No Public Interest

FACTS

1

The plaintiffs instituting this action seeking the following relief

- A To determine the heirs with interest in the property
- B To determine each heir's proportional interest
- C To quiet title to the property *Paragraph 40 & 41* of Complaint
- D For sale *Paragraph 46* of Complaint

2

Unknown minors , persons under disability and those serving in the armed services were not cited as defendants on the Summons & Complaint.

3

Defendants had to at conference hearing insist and argue for an Order to compel the Plaintiffs to issue Publication of Process on unknown heirs persons under disability, minors and those serving in the Armed Services.

4

Nothing in the complaint gave notice to the defendants that they had a right of first refusal to purchase the property from the plaintiff heirs who had contracted with Rotunda to sell the property.

5

Prior to the time counsel appeared in this action as attorney for the defendants the plaintiffs had obtained a Court Order limiting the defendants to sixty days to exercise their "Right of First Refusal."

6

The defendants filed a *Motion for Instructions*, that among other things requested the Court to hold an evidentiary hearing as required by law to determine the heirs to the property in light of there being four (4) non-probated estates of recently deceased heirs in various states, that was not granted; but denied.

7

The defendants though they produced competent evidence of *financial capacity* see Exhibit # 1 to pay the appraised price of 9.1million they were, nevertheless, required to pay the entire amount of \$ 8.9 million into the Clerk of Court by December 23, 2021 without any provisions in the Order as to

- A) who would convey the property,
- B) When would the property be conveyed
- C) no warrant deed or marketable title would be given.

8

There is no court order specifying a time limit for the sale of the property by Plaintiffs to Rotunda, though Plaintiff's counsels represented to the court at the January 6, 2022 status hearing that they would be ready to close within 90 days or during the month of March 2022.

9

The plaintiff's have not produced any documentation of record that Rotunda still has a valid contract with the Plaintiff heirs to buy the property.

That Defendant's counsel did advise the lower court that prior to filing the lawsuit the defendants had devised a scheme to defraud the defendant heirs out of the benefit of their "Right of First Refusal". The scheme was

- A) not to publish the Summons and Complaint to avoid given notice to any unknown heirs
- B) to circumvent the requirements of conducting an evidentiary hearing as required by § 15-61-330.(A) SC Code but in lieu thereof
- C) Enter a Consent Order stating the heirs and their respective percentage ownership interest.
- D) Set the date and for the minimum amount of time allowable *(60) days) by statute* for the defendants to exercise their Right of First Refusal and before
 - 1) obtaining an Order Quieting Title, knowing that
 - 2) It is commercially infeasible for anyone to procure a loan for six million dollars within less than sixty days on property that cannot be collateralized because it carries Heirs Title and not Marketable Title (i.e. warranty deed) knowing that no title insurance company will insure "heirs title" property.

11

Upon the defendants not being able to exercise their "Right of First Refusal then the plaintiffs would complete their sale to Rotunda with the proviso that the closing would not transpire until the Plaintiffs were vested with Quiet Title.

12

The lower court has ruled that its order of September 21, 2021 is the Final Order. This order does not state that the parties as heirs are vested with the fee simple title to the property. The order solely states who the heirs are and their respective interest percentages of ownership.

13

There are no allegations in the complaint alleging who was the first grantee in the chain of title upon which the family tree or heirships were derived.

14

There are no allegations in the complaint concerning exclusive, open, hostile ownership and possession of the property for the required statutory period of time for either under claim of title or adverse possession.

15

No posters were placed on or about the property as required by the Pinckney Act. This notice requirement in part is to place adjoining landowners that an action to

quiet title has commenced particularly as disagreements as to boundary lines may exist.

ARGUMENT 1

The interest of justice would be better served if this court would retain jurisdiction under Rule 241 (d)(1), SCACR to rule upon the Appellant's motion for supersedes and stay rather than the lower court.

The record of this proceeding contains improper procedural and substantive errors as set forth in the factual narrative above such that it appears that the lower court would have to reverse its understanding an application of the Clemanta C Pinckney Act with its Right of First Refusal provision coupled with the further understanding and that an action to quiet title means a proceeding consisting of an evidentiary hearing with findings of fact and conclusions of law substantiating the issuance of an order removing all clouds and impediments upon the title to real property to then enable the court to issue its order proclaiming the designated owner(s) possess a fee simple absolute (i.e. "marketable title" title to the property.

In the action herein, at best all that has been accomplished is the entry of a consent order alone, without any corroborating testimony or evidence, establishing who are the descendant heirs and their percentage interest in the property, that is

subject to expanding due to the recent deaths among the heirs. There remain four non-probated intestate estates presently to be administered. The complaint states that the action is commenced to quiet title to the property yet it doesn't state whether it is upon claim of title or adverse possession for the appropriate period of time. At the present time the only deed that may be properly issued upon the property is a quit - claim deed. No statutory notice was posted on the property to render notice to the adjoining landowners of the commencement of the action in the event there existed a property bondage dispute. Please direct your attention to the caption of the case. Were any unknown heirs, minors, persons under disability or serving in the armed forces joined as defendants? Yet, under this prevalent condition of the title the defendant non -selling heirs were only afforded the statutory minimum of sixty days to tender with the clerk of court the sum of 6.9 million dollars without benefit of being able to collateralize the property for a loan. (Title insurance companies will not underwrite "heirs title" property only marketable title) Additionally, no provision was made for an authorize person to tender any type deed upon the tender of the money. Further, no time period was

specified as to when the deed conveyance would be made. This is a unconscionable condition without the provisional dictates of the Pinckney Act. According to plaintiff's counsels no deed was required as this was designed for only the

defendants to acquire the plaintiffs' interest in the property. When in the history of our jurisprudence is an interest in real estate transferred by a Bill of Sale?

The gavelmon point is that under the premises considered, it is easier and fairer for another tribunal or full panel to correctly review a proceeding rather than to convince a prior fact finder that their perspective upon the facts may not be properly aligned and that error perinates this proceeding.

ARGUMENT 2

Though **Rule 241 (b)(3)** SCRAP states that “*Judgments directing the execution of conveyances*” is an exception to the general rule stated in **Rule 241 (a)** SCACR; the Appellant will show that specific conditions precedent as set forth in **Rule 241 (b)** SCACR have not been met.

First, the order granting the plaintiffs authority to sell the property to Rotunda cannot be fulfilled or executed giving the status of the property as “heirs title” unless deceit is utilized such as tendering the defendants their share of the appraisal value for a quit-claim deed and then dismissing the action and commence a new action to quiet title. Upon completion of this subsequent action the plaintiff heirs would be paid for their remainder interest.

Second, since the lower court has ruled that its Order of September 21, 2021 is the Final Order of the case no modifications to it may be properly supplemented.

Third, there exist no evidence that Rotunda has a present enforceable contract with the plaintiff heirs to purchase the property.

Fourth, plaintiffs' counsels represented to the court at the January 6, 2022 status hearing that they would be ready to close on the purchase of the property within ninety days which is now over 180 days.

Fifth, the September 21, 2021 Order may be voidable for indefiniteness as it sets no time limits for it to be executed; save in perpetuity.

Sixth, the property is unimproved property not subject to waste and without any maintenance requirements.

Finally, in balancing the equities between the parties the plaintiffs will receive the same consideration for their interest in the property from the defendants without brokerage commissions being deducted. The defendants will receive in addition to their share of the purchase price a perpetual equity interest in the property with their partner purchaser. This was a social goal our legislators desired in enacting the Pinckney Act.

Respectfully submitted,

The Houston Law Firm LLC
1000 Main Street, Suite 200 C
Hilton Head Island, SC 29926
Phone 8 43-715-9078
E-mail: *chouston@houstonlawfirm.net*

By: Charles E. Houston Jr.
Charles E. Houston Jr.
SC Bar# 2663
Attorney for Appellant

September 7, 2021
Hilton Head Island, SC

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE # 2020-CP-07--2301

**GEORGIA HARRISON, BARBARA HARRISON,
JOYCE ELLEN HARRISON, WILLIAM S.
HARRISON, III, STANLEY ROBERTS AND
DIANA MENDHEIM INDIVIDUALLY AND AS
AGENT AND ATTORNEY IN FACT,**

Plaintiffs,

vs.

**DEFENDANTS' RESPONSE IN
OPPOSITION TO MOTION FOR
MASTER'S DEED**

**STEPHANIE LORRAINE KIRKLAND, GARY
LAMONT KIRKLAND, KIETA NICOLE WHITE,
AND CHERYL KIRKLAND,**

Defendants.

To: Thomas Heyward, Esq.; and Chester C. Williams , Esq. Attorneys For
Plaintiffs:

The Defendants for the following reasons oppose the Plaintiff's Motion for
the court to convey the property subject to this action by Master's Deed.

FIRST: The Defendants objected to the Master in Equity issuing a
Master's Deed for the proposed sale of the property by the Plaintiffs as the
Plaintiff's objected to this procedure for the conveyance of this property via
Master's Deed when the Defendants were attempting to exercise their
Right of First Refusal. They are now by estoppel precluded from taking an
opposing position; especially where the Court is aware that a Master's
Deed for the property subject to this action cannot convey fee simple

marketable title and for the same reason did not grant the Defendant's request for a Master's deed.

SECOND: It would be a travesty of justice and judicial bias for the Court to grant the issuance of a Master's Deed when the Plaintiff's request it after denying the use of this procedure when the Defendant's had requested that this conveyance mechanism be utilized to convey the property. For the Court to grant this relief to the Plaintiffs while having previously denied it to the Defendants would constitute an inequity and impinge upon the Defendants constitutional right for the equal application and equal protection of the laws administered by the Court.

THIRD: That to issue a Master's Deed would be in violation of Rule 71, SCRCP. This rule states that *"Prior to the filing of the master's report or final order of judgment, the judge or master shall assure that the plaintiff and all other claimants have complied with the statutes pertaining to the filing of notices of Lis pendens."* The Plaintiffs have not filed a Lis Pendens in this action that would constitute both a procedural and jurisdictional defect.

FOURTH: That required and indispensable parties have not been joined in this action that constitutes another jurisdictional defect. There are Four (4) non probated estates of deceased persons possessing an undivided interest in the property subject to this action in violation of Rule 71(d)(1), SCRCP. This rule states the following:

Parties to Partition Actions. *In addition to the requirements of these rules for the joinder in an action of all parties in interest, pursuant to Rule 17(f) no partition of real property of a deceased person shall be had unless the legal representative or representatives of such deceased*

person be made parties to the action and it be made to appear to the court that the debts of such deceased person are fully paid or that the personal estate in the hands of the personal representative or representatives is sufficient for the payment of the debts of such deceased person. If the partition action involves real property of a deceased person whose estate has not been administered or is not being administered at the time of the bringing of the action, then all known encumbrancers of the estate of the deceased person shall be made parties to the action and no decree in partition shall be entered unless due provision is made for the payment of the debts found due such encumbrancers. In all actions for partition, all heirs at law or devisees of the deceased person shall likewise be made parties. The Plaintiffs who commenced and prosecuted this action have failed to do this which constitutes a personal jurisdictional defect in this proceeding.

FIFTH: Another jurisdictional defect falls under Rule 71(e). This Rule states the following:

Actions When Title Is at Issue. *In foreclosure or partition actions when title to real property is at issue the court or master to whom the action is referred shall take testimony and receive evidence as to the title and interest in the premises of the several parties. In all such actions the judge or master shall ascertain the rights and interests of the several parties and set forth in the report or order of judgment the conveyances or probate estates, if any, through which the rights or interests were acquired.* The Plaintiffs have failed to convene and the Court “Sua Sponte” has not held an evidentiary hearing in this proceeding to come into compliance with the provisions of this rule.

SIXTH: and lastly, it would be an injustice perpetrated upon our citizenry for the Court to convey the property by Master’s Deed when it is obvious to the Court that the tenants in common to the property are not seized with

fee simple title to the property and the Master's deed would solely be conveying a limited quit -claim interest. A Master's deed is relied upon as being a warrant deed that conveys marketable title. Additionally, the completion of an action to quiet title, not as it is in the present case, infers that all the clouds, imperfections and impediments upon the title have been removed and what remains is the naked unencumbered fee simple absolute marketable title. A perfect example of this is the prior action to quiet title to this same tract of land. (See Case # 2008-CP-07-0452.) In this case the Hon. Judge Marvin H. Dukes in his Final Order of the case stated the following;

"I now conclude as a matter of law:

- a) The property which is the subject of this action is now owned in **fee simple absolute** by the following persons, having the respective ownership shares as outlined below:" A copy of the complete Order issued by judge Dukes in that action is attached as Exhibit 1.

Respectfully submitted,

The Houston Law Firm LLC
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chouston@houstonlawfirm.net

By: S/ Charles E. Houston Jr.

Charles E. Houston Jr.
S.C. Bar No.2663
Attorney for the Defendants

March 16, 2022
Hilton Head Island, SC

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STATE OF SOUTH CAROLINA, COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

GEORGIA HARRISON, BARBARA
HARRISON, JOYCE ELLEN HARRISON,
WILLIAM S. HARRISON, III,
STANLEY ROBERTS, and DIANA
MENDHEIM, individually and as
agent and attorney in fact,
Plaintiffs,

v.

STEPHANIE LORRAINE KIRKLAND,
GARY LAMONT KIRKLAND, KEITA
NICOLE WHITE, CHERYL KIRKLAND,
WILLIAM CHARLES KIRKLAND,
PAULETTE KIRKLAND, PAUL T.
ALLBRIGHT, CHRISTOPHER KIRKLAND
AND SHAWN KIRKLAND,
Defendants.

Civil Action No.
2020-CP-07-02301

1 VIDEOCONFERENCE HEARING 2 DATE: Thursday, September 15, 2022 3 TIME: 11:03 a.m. EDT/10:03 a.m. CDT 4 BEFORE: Honorable Marvin H. Dukes III 5 LOCATION: Remote Proceeding 6 Dallas, TX 75201 7 REPORTED BY: Sophie Caudle, Notary Public 8 JOB NO.: 5466494 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	1 A P P E A R A N C E S (Cont'd) 2 ON BEHALF OF DEFENDANTS STEPHANIE LORRAINE KIRKLAND, 3 GARY LAMONT KIRKLAND, KEITA NICOLE WHITE, CHERYL 4 KIRKLAND, WILLIAM CHARLES KIRKLAND, PAULETTE KIRKLAND, 5 PAUL T. ALLBRIGHT, CHRISTOPHER KIRKLAND, AND SHAWN 6 KIRKLAND: 7 CHARLES HOUSTON, ESQUIRE (by videoconference) 8 The Houston Law Firm, L.L.C. 9 1000 Main Street, Suite 200 C 10 Hilton Head, SC 29926 11 chouston@houstonlawfirm.net 12 13 ALSO PRESENT: 14 Andre White 15 Barbara J. Harrison, Plaintiff (by 16 videoconference) 17 Earsa Jackson, Esquire, Clark Hill PLC (by 18 videoconference) 19 Georgia Harrison, Plaintiff (by videoconference) 20 Kay White (by videoconference) 21 Mark Jones (by videoconference) 22 Robert Young (by videoconference) 23 Rose Hampton (by videoconference) 24 Tyrone Hodges (by videoconference) 25
Page 2	Page 4
1 A P P E A R A N C E S 2 ON BEHALF OF PLAINTIFFS GEORGIA HARRISON, BARBARA 3 HARRISON, JOYCE ELLEN HARRISON, WILLIAM S. HARRISON, 4 III, STANLEY ROBERTS, AND DIANA MENDHEIM: 5 THOMAS C. TAYLOR, ESQUIRE (by videoconference) 6 Law Office of Thomas C. Taylor, L.L.C. 7 22 Bow Circle, Suite A 8 Hilton Head, SC 29928 9 tom@thomastaylorlaw.com 10 (843)785-5050 11 12 CHESTER WILLIAMS, ESQUIRE (by videoconference) 13 Law Office of Chester C. Williams, L.L.C. 14 PO Box 6028 15 Hilton Head, SC 29938 16 firm@ccwlaw.net 17 (843)842-5411 18 19 TERRY A. FINGER, ESQUIRE (by videoconference) 20 Finger Melnick & Brooks 21 35 Hospital Center Commons, Suite 200 22 Hilton Head Island, SC 29926 23 tfinger@fingerlaw.com 24 25	1 E X H I B I T S 2 NO. DESCRIPTION ID/EVD 3 Plaintiff: 4 (None marked.) 5 6 NO. DESCRIPTION ID/EVD 7 Defendant: 8 (None marked.) 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
Page 3	Page 5

1 PROCEEDINGS 2 THE COURT: Good morning. We're here 3 in 2020-CP-07-02301. This is Harrison et al. vs. 4 Kirkland et al. And this matter was scheduled for 5 10:30 a.m. today, the 15th of September for all 6 outstanding motions. We're getting a little bit of a 7 late start. It's 11:03 a.m. We had some difficulty 8 trying to get Mr. Houston on. And Mr. Houston has 9 decided to proceed audio only, and we can hear him 10 just fine. And so we'll proceed that way. 11 Now I've got all outstanding motions. 12 I see one motion. That is Defendants' Motion for Stay 13 and Waiver of Supersedeas Bond or in the Alternative, 14 a Nominal Bond Pending Appeal. 15 And, Mr. Houston, I'm happy to hear 16 from you, sir. 17 MR. HOUSTON: Well, there are two 18 motions, I think, Your Honor. 19 THE COURT: Okay. 20 MR. HOUSTON: The defendants have a 21 motion, which you just identified. And I think also 22 the plaintiffs had filed a motion for a master's deed, 23 which I think is also on the agenda for today, if I'm 24 correct. 25 THE COURT: Thank you for that Page 6	1 controlling is basically 16-6-270. Hold on. I'm 2 going to make sure I'm giving you the right number. 3 This is very small print coming off of 4 the -- otherwise, the ones that the defendants had 5 cited in their brief pertains to money judgments, and 6 that's not the category of our particular case. We're 7 not involved with a money judgment. We're 8 involved -- which I think that the statute they quoted 9 was I think 240. And the controlling one is 270. 10 And that is an order, you know, for the 11 sale of property in which the standards apply 12 different and the supersedeas bonds are much lower. 13 Under 270, basically the only bond that is required is 14 a bond to cover any waste to the land. And since this 15 is undeveloped property, you know, there can be no 16 damage done to it. No one is using it or occupying it 17 or having any activity upon the property. So the 18 property would be preserved in its natural state 19 during the pendency of the appeal. 20 And the formula that the statute sets 21 forth is the difference between the present value or 22 use of the property at this time compared with what it 23 would be at the time the appeal process would have 24 been resolved and completed. So here, we're dealing 25 with raw land, so we're only dealing with a nominal or Page 8
1 clarification. I should have noted that we're 2 actually having trouble with the CMS system right now, 3 so I have to open each individual document. I can't 4 scroll anymore. So I see that as well. 5 Let me ask, though: I would assume, 6 based on the nature of the motions, it makes some 7 sense to hear the defendants' motion first. Do the 8 parties agree on that? Otherwise, I ordinarily hear 9 motions, as y'all know, in the order in which they 10 were filed. Is there any -- 11 MR. TAYLOR: Well, Your Honor, we would 12 agree that Mr. Houston's motion being heard first 13 would be appropriate. 14 THE COURT: Okay. Thank you so much. 15 All right then, Mr. Houston. I am 16 happy to hear from you, sir. 17 MR. HOUSTON: Okay. The first thing I 18 want to point out to the Court, Your Honor, is that we 19 have a duty to be candid and honest with the Court in 20 writing our briefs and in the factual representations 21 we make to the Court. And in that light, I give 22 reference to the brief filed yesterday evening by the 23 defendants citing the controlling statute pertaining 24 to the granting of a stay and supersedeas, which was 25 an error and very misleading. The statute that is Page 7	1 really no supersedeas bond at all. The -- 2 THE COURT: I'm listening, sir. Keep 3 going. 4 MR. HOUSTON: Okay. The second point I 5 want to bring to the Court's attention is that the 6 order itself is vague, and the plaintiffs have not 7 conformed to it. This order was issued back in 8 October. And in January, I believe, the defendants 9 requested an additional amount of time to complete the 10 contract. This is September 2022. And as yet, there 11 has been no announcement that a valid contract exists. 12 And your order speaks to a valid contract. And since 13 there is no valid contract, that makes the order 14 voidable. 15 Additionally, the order didn't put any 16 definitive time frame in it, which it should have. 17 But in any event, back in January, they asked for 18 additional 60 or 90 days, and they weren't able to 19 produce. So we're being asked to post a bond on an 20 order, and the order itself is not concrete as to its 21 terms. 22 MR. FINGER: This is Terry Finger. At 23 the risk of interrupting, there is a valid contract 24 between my client, Rotunda Land Company, and the 25 plaintiffs. It is still in existence. We have been Page 9

1 waiting, ready, willing, and able to close. We just 2 keep -- every time we get close, there's another 3 appeal or another motion or something like that. But 4 there is a contract in place between the parties that 5 are referenced earlier in these transactions. 6 MR. TAYLOR: And copies had been 7 delivered to Mr. Houston prior. 8 THE COURT: Okay. All right. Thank 9 you. 10 Mr. Houston, go ahead and finish if you 11 would, please. 12 MR. HOUSTON: What is the date of the 13 contract? We've never been provided a complete 14 contract. The only thing we've heard of is that 15 requested another extension. 16 THE COURT: Do y'all have the date of 17 the contract? 18 MR. TAYLOR: Chet, can you help me with 19 that? 20 THE COURT: -- muted. 21 MR. TAYLOR: Turn your volume on, 22 Chester. 23 MR. WILLIAMS: Yeah. Your Honor, I'm 24 looking at a copy of an e-mail that I sent to 25 Mr. Houston on January 6 of this year that had a copy Page 10	1 contract still exists. But -- go ahead. 2 MR. HOUSTON: That's lawyer's talk. 3 That's not producing the document. 4 MR. FINGER: Am I being accused of 5 misrepresenting my client? 6 MR. HOUSTON: You know, all we 7 concerned, they could say they have a verbal contract. 8 THE COURT: Okay. Well -- everybody 9 hold up a second. So I assume there's no objection to 10 sending Mr. Houston the latest contract extension if 11 he doesn't already have it. But that might resolve 12 that issue if it is an issue. 13 But so, Mr. Houston, go on with your 14 motion if you would, please, sir. 15 MR. HOUSTON: All right. But that's 16 the other point. The third point, Your Honor -- the 17 other matter. But those are the two salient points. 18 Plus the other points I've outlined in our brief. But 19 those are the two salient points that I want to bring 20 to the Court's attention now. One, we received it 21 under the incorrect statute, and that 270 controls as 22 the standard there. And the other one is that the 23 question about whether or not there is a valid 24 contract to substantiate the Court's order. 25 THE COURT: Okay. All right. Thank Page 12
1 of the fully executed contract attached to it. 2 THE COURT: Okay. Thank you. 3 MR. WILLIAMS: And -- 4 MS. JACKSON: And, Your Honor, if I may 5 add, I think that what was provided had an expiration 6 date or a deadline by which to close. And I believe 7 that he's referring to documentation of an extension 8 of that deadline. 9 MR. WILLIAMS: Correct. And there have 10 been several extensions. And at this point, though, 11 there is a valid contract out there. Neither the 12 buyer nor the seller have taken any action to put the 13 other in default. And both the buyer and the seller 14 agree that there's a valid contract. 15 THE COURT: Okay. Thank you. 16 Mr. Houston, go ahead and -- 17 MR. HOUSTON: Okay. 18 THE COURT: Yes, sir. 19 MR. HOUSTON: I'm raising the question 20 of the validity of a contract that they have come to 21 court and say, "This is the contract that's signed." 22 You know, for all we know, at some time, they may have 23 had a tentative contract that's now void. 24 THE COURT: Well, they have both sides 25 to the contract on this call, and they claim the Page 11	1 you so much, sir. 2 MR. HOUSTON: -- says that they compel 3 it. They can enter the contract if they have it. If 4 they have it, come forth with the contract. 5 THE COURT: Okay. 6 MR. WILLIAMS: Well, that's simply not 7 true, Charles -- in March. It's the same contract. 8 THE COURT: Y'all hold on one second. 9 Let me make sure Mr. Houston is finished, and then 10 I'll be happy to hear the opposition to his motion. 11 So, Mr. Houston, anything else, sir? 12 MR. HOUSTON: Well, Your Honor, yes. 13 What I would say is that if they don't want to show 14 the contract to us -- which they should -- but that 15 they at least show it to you that they have a valid 16 contract and not a contract -- and not a contract 17 dependent upon the logic contingencies. 18 MR. WILLIAMS: If I may, Your Honor. 19 Charles, did you not get that e-mail 20 that I sent you in January with the copy of the 21 contract attached to it? 22 MR. HOUSTON: I may have, but I don't 23 have it in front of me. It's not been filed of 24 record. 25 MR. WILLIAMS: Well, it didn't bounce Page 13

1 back to me, so I have to assume that you got it. So 2 you do have the contract. So -- 3 MR. HOUSTON: I'm not denying that you 4 sent me something. Right. But what I'm saying is -- 5 MR. WILLIAMS: -- that we hadn't 6 provided it to you. 7 THE COURT: Yeah. We're making it 8 really difficult for our court reporter who's trying 9 to -- 10 MR. WILLIAMS: I apologize. 11 THE COURT: -- take down everyone's 12 voices at once. 13 But let me do this: Mr. Houston, I 14 want to make sure you've told me everything you want 15 to tell me. Is there anything else, sir? 16 MR. HOUSTON: Well, we're talking, 17 basically, about a reasonable supersedeas bond. And 18 what we request is that the requirement of supersedeas 19 be waived or, if it can't be waived, let just some 20 nominal amount be established under the provisions of 21 the section 70 of that. I think it's 16-12-70 statute 22 dealing with appeals. 23 THE COURT: All right. Thank you. 24 MR. HOUSTON: If it's not granted, the 25 defendants will suffer irreparable harm and with the Page 14	1 THE COURT: Oh, go ahead. 2 MR. HOUSTON: -- all the other points I 3 made in my brief. But for the brevity of time, I 4 don't want to dwell on each one at that particular 5 moment, Your Honor. But I'll ask you to read the 6 brief and take those other factors in consideration. 7 THE COURT: Thank you so much, sir. 8 All right. I'm happy to hear anything 9 in opposition. 10 MR. TAYLOR: Your Honor, good morning. 11 Tom Taylor on behalf of the petitioning plaintiffs. 12 Judge, first, to deal with the issue of the contract, 13 let me be as clear as possible: I, with 38 years of 14 experience in front of -- Chet Williams, who is also 15 here on behalf of the plaintiffs, and Terry Finger 16 have affirmatively represented to the Court this 17 morning that there is a valid and existing contract 18 between Rotunda and the plaintiffs for the sale of 19 this property at \$9,750,000. That contract has been 20 previously provided to Mr. Houston. Copy of it will 21 be provided to Mr. Houston within an hour of this. 22 And, Your Honor, I draw the Court's 23 attention to the fact that in his motion, there is not 24 a word contending that there is not a valid contract 25 in existence. I have no idea where this issue came Page 16
1 potential, you know, that the appeal could be 2 dismissed as moot. 3 THE COURT: All right. 4 MR. HOUSTON: Yeah. The plaintiffs 5 have shown no prejudice. They have made the argument 6 about the economic factor, but that's frivolous. 7 You're talking about a development that's probably ten 8 years to twelve years into development. And basically 9 whatever the economic environment may be at the 10 moment, that's subject to change. And we're looking 11 at an extended period of time. I know my clients have 12 budgeted at least 75 million for the development of 13 this property. So where the stock market is today or 14 might be within the next few days, that is irrelevant 15 and not even taken into consideration for someone 16 who's going to make a major development. I mean, 17 everything on Hilton Head that's been built was 18 usually planned during bad times, so by the time they 19 built it, the good times are there. So I think that 20 their argument is misplaced and frivolous and carries 21 no substantial weight for consideration. 22 THE COURT: All right. Thank you so 23 much, sir. I appreciate it. 24 MR. HOUSTON: I also give reference 25 to -- Page 15	1 from this morning. And certainly we could have 2 provided it prior to this had there been an issue 3 raised about it. But it is in existence, and it is 4 valid from both perspectives. 5 And, Mr. Finger, I'd ask you to confirm 6 that. 7 MR. FINGER: That's correct, 8 Your Honor. 9 MR. TAYLOR: All right. Judge -- 10 MR. HOUSTON: My point is that they 11 have a contract, but it may not be a contract for a 12 complete sale. When is the closing date? Does the 13 contract specify a closing date? 14 THE COURT: Why don't we do this? I 15 understand that the contract is to be e-mailed to you, 16 Mr. Houston. And I'll let you tell me whatever else 17 you want to tell me once Mr. Taylor finishes. Why 18 don't we just try to keep it back and forth rather 19 than all at once? It makes it -- 20 MR. HOUSTON: Well, Your Honor, I'm not 21 the person who's going to be the finder of fact. 22 E-mailing it to me doesn't accomplish anything. I 23 think that basically it should be submitted for your 24 review to see if it's a current and exercisable 25 present contract or if it's just a contract with the Page 17

1 intent to purchase with a lot of contingencies 2 contained in the contract. 3 THE COURT: Would y'all copy me with 4 the contract when you copy Mr. Houston again with it, 5 please? So -- 6 MR. WILLIAMS: Your Honor, I've just 7 sent it to Mr. Houston. I've copied you. I've copied 8 Heather. I've copied Ms. Jackson. I've copied 9 Mr. Taylor. I've copied Mr. Finger. And -- 10 MR. HOUSTON: Thank you for that. 11 MR. WILLIAMS: -- it does provide for a 12 closing date, I think, on March 22nd. However, 13 because of the defendants' actions in this 14 matter -- the dilatory actions of the 15 defendant -- we're not in a position to close yet. 16 We're waiting -- well, we are as long as Judge Dukes 17 grants our motion to sign a master's deed. Then we'll 18 be able to close. And neither party has taken any 19 action steps to put the other party into default. 20 THE COURT: Okay. Thank you so much. 21 All right. Mr. Taylor, go on, please. 22 MR. TAYLOR: Your Honor, thank you. 23 Your Honor, focusing on the motion at 24 hand -- Mr. Houston's motion which is entitled Motion 25 for Stay and Waiver of Supersedeas Bond -- we filed a Page 18	1 held of this matter, that the continuing delays on the 2 sale of this land put at risk very much the \$9,750,000 3 price, which, Your Honor, I would remind the Court, is 4 a benefit to not only the plaintiffs, but to the 5 defendants because everyone is going to share in this 6 sale price pursuant to the previously agreed-upon and 7 court-ordered ownership percentages. There's nothing 8 about that that is in question anymore. The only 9 question is, how long are we going to delay until we 10 sell this land? 11 Your Honor, the motion is controlled by 12 Rule 241. Mr. Houston has talked a little bit about 13 the code. Because he raised that in his motion, I 14 attempted to address it for the Court's benefit. 15 Judge, what he is talking about is Section 18-9-130, 16 which I quote in my brief. And Mr. Houston talked 17 about 18-9-17, which may arguably be the more 18 appropriate code section to look at. But provides in 19 the same light, Judge, that a surety has to be taken 20 out to affirm that there is no waste committed on the 21 land. And, Judge, we don't know of anything that 22 could be more wasteful to all the people involved in 23 this process than to have a \$9,750,000 contract, which 24 was executed at the time when land sales were probably 25 40 to 50 percent higher than they are right now, given Page 20
1 memorandum yesterday afternoon. Mr. Houston has 2 discussed it. Your Honor, this entire issue has 3 already been decided. As the Court is aware, 4 Mr. Houston has filed the notice of appeal with the 5 Court of Appeals, and that was filed on March the 9th 6 of 2022. On March the 17th of 2022, Mr. Houston filed 7 a motion pursuant to Rule 241(a), asking the Court of 8 Appeals to declare an automatic stay. And by order of 9 June 23, 2022, the Court of Appeals denied that motion 10 and stated specifically that the relief sought 11 required the posting in writing with two sureties 12 guaranteeing the property will not be wasted while the 13 appeal is pending. The Court of Appeals has 14 already -- and then -- asked for a reconsideration of 15 that. And after another two months, the Court of 16 Appeals denies the motion for reconsideration. The 17 Court of Appeals judge has already ruled that pursuant 18 to Rule 241, there is no automatic stay in this 19 matter, and that if there is going to be one, 20 Mr. Houston has to apply on behalf of his clients for 21 a supersedeas, and then this Court will decide what 22 that supersedeas, if it should be granted, should also 23 be bonded off with. 24 And, Your Honor, we would maintain very 25 strongly, as we have in every hearing that has been Page 19	1 what has occurred with the real estate and stock 2 market. And we urge the Court to deny the motion for 3 any type of nominal bond and to grant the motion only 4 upon a ordering and a rendering of a bond of 5 \$9.75 million in order to secure this property and to 6 secure the contract until the Court of Appeals can 7 rule upon the matter. 8 THE COURT: Now I've got -- 9 MR. HOUSTON: -- interrupt -- 10 THE COURT: All right, Mr. Houston. 11 MR. HOUSTON: In response -- again, 12 Counsel is citing the wrong statute. It's this 170 13 that controls the situation. This is not a judgment 14 for the payment of money. If this were a judgment for 15 the payment of money, what Counsel is proffering to 16 the Court would be correct. But Counsel knows, being 17 a learned lawyer, that this is not the nature of what 18 we are involved with -- order to sell property. Okay? 19 The second thing is, we have not 20 engaged in any dilatory practice. We have exercised 21 every right we have under the law because of the 22 deceitful manner in which the plaintiffs' counsel have 23 proceeded with this case. Not only with the due 24 process violation, but also with not proceeding to 25 permit the granting of a deed to the defendants when Page 21

1 they were requested to exercise their right of first 2 refusal. 3 The second thing is, they had no 4 intentions of going through with this action. They 5 said that this was an action to quiet title. But they 6 had no intent to take it that far. And they knew at 7 the inception of the action that there were four 8 outstanding estates. And so what their game plan was, 9 was to just take it as far as getting a order to sell, 10 and I don't know how they're going to close on any 11 quitclaim deed. But even if they do close on a 12 quitclaim deed, then what they're going to do is going 13 to bring another quiet title action, and then that 14 quiet title action alleged that my defendants have 15 already conveyed their interest in the property. And 16 that's deceitful. You know, when they said that 17 they're bringing an action to quiet title, that 18 actually stops my defendants from doing that. If we 19 have wanted to create a title, we wouldn't have been 20 able to do so because there was an action pending. 21 So the counsel for the plaintiffs have 22 not pursued this matter in good faith by not 23 proceeding to complete the cause of action that they 24 instituted. You know, that they stopped at the 25 halfway mark. So you know, to accuse of us any Page 22	1 MR. TAYLOR: Your Honor. Tom Taylor. 2 MR. HOUSTON: So that was another 3 subterfuge and misrepresentation of a nature. 4 MR. WILLIAMS: And I take offense at 5 being inferred -- not inferred -- absolutely stated 6 that we are doing anything underhand. 7 THE COURT: Thank you. 8 Mr. Taylor, you had something you 9 wanted to add. 10 MR. TAYLOR: Yes, sir, Your Honor. 11 Your Honor, for the record, all of this discussion 12 about the topics that Mr. Houston is now throwing out 13 there is inappropriate in this motion. Mr. Houston 14 can make those arguments if he likes to the Court of 15 Appeals via his appeal, but they are inappropriate at 16 this point. 17 And biting my tongue as hard I can, 18 Judge, I want to again say I take great offense at 19 this. And I know, Judge, you don't want to hear this, 20 but, Your Honor, Mr. Vaux representing the defendants 21 a year and a half ago consented to the ownership 22 because everyone knew that it was the right thing to 23 do. And there is a court order as to that in the 24 file. And to just be marching the law and throwing 25 out these allegations of deceit on behalf of me and Page 24
1 dilatory practice is misplaced. 2 MR. WILLIAMS: If I may, Your Honor. 3 THE COURT: Go ahead, please, sir. 4 MR. WILLIAMS: Mr. Houston simply is 5 absolutely wrong in his assertion that there were four 6 open estates at the time of the consent order that 7 quieted title. At that point, all of the co-owners of 8 the property were living and alive. It's only because 9 of the defendants' dilatory actions through this that 10 four open estates are now out there. But, Your Honor, 11 you've addressed that before, and the way you handled 12 that is the property is sold; any amounts that are due 13 to those estates go into the registry of the court 14 until the estates are probated; they can then be 15 distributed from there. 16 THE COURT: Thank you. 17 MR. TAYLOR: Your Honor -- 18 MR. HOUSTON: Your Honor, that consent 19 order is a subterfuge. Even in a criminal case, you 20 can't convict the defendant on just a confession; you 21 have to have some other collateral evidence. And in 22 this situation, they tried to substitute a consent 23 order in lieu of having an evidentiary hearing. And 24 because even the consent order, everybody couldn't 25 consent to it because some people had died. Page 23	1 Chet and our plaintiffs is just factually wrong, and 2 it's just morally wrong -- 3 MR. HOUSTON: You know -- in any case 4 in the history of South Carolina jurisprudence where a 5 consent order is accepted in lieu of a 6 statutory-required evidentiary hearing. 7 MR. TAYLOR: That's just bizarre to 8 even say. 9 MR. WILLIAMS: Yeah. I suggest that 10 there's been jurisprudence that says you can't do it. 11 THE COURT: Well, let's do this: I'm 12 going to try to read the statutes y'all have given me, 13 try to figure out what "waste" means, look at all of 14 this, and try to let y'all know something. I know 15 it's gone on forever. I see something popped up. I 16 guess somebody sent me the contract a minute ago. I 17 hadn't looked at it yet, of course. 18 MR. WILLIAMS: I did, Your Honor. 19 THE COURT: But I'll take a look at all 20 of it. This is the case -- and I got several of these 21 cases, of course, that sometimes run into one another 22 in my mind. But, Mr. Houston, your clients represent 23 what percentage ownership of the whole? 24 MR. TAYLOR: One point one percent. 25 MR. HOUSTON: Your Honor, the Page 25

1 percentage doesn't have anything to do with equitable 2 rights. 3 THE COURT: I'm sorry. I didn't hear 4 that, sir. 5 MR. HOUSTON: I said percentages has 6 nothing to do with equitable rights. And so far, if 7 we want to make comparisons, we've offered more money 8 than their alleged contract calls to pay -- 9 THE COURT: My question didn't have 10 to -- 11 MR. HOUSTON: -- communicated -- let me 12 finish, please. 13 THE COURT: Go ahead, please, sir. 14 MR. HOUSTON: This wasn't communicated 15 to their clients. Their clients don't know that we 16 took more -- that they would see more money under our 17 offer than they would under this present contract. 18 MR. WILLIAMS: Your Honor, the 19 contract -- 20 MR. HOUSTON: -- the essence of what 21 I'm saying is percentages doesn't mean anything. The 22 thing that should be considered is, what is the 23 maximum benefit to the greatest number of people? And 24 the contract that the money amount offer we offered 25 would be, whether or not we're just a small minority Page 26	1 will want to update title from the last -- but there 2 are no more contingencies left in the Rotunda 3 contract. 4 The contract that Mr. Houston keeps 5 talking about that doesn't actually exist because it's 6 never been signed has all sorts of contingencies in it 7 during which period of time the buyer can just walk 8 away and leave all of the owners of the property 9 holding a bag full of nothing. Thank you. 10 MR. TAYLOR: Your Honor -- 11 MR. HOUSTON: Counsel, it wasn't -- 12 MR. TAYLOR: Your Honor -- 13 MR. HOUSTON: It wasn't offered as a 14 contract. It was an offer. 15 MR. WILLIAMS: But you keep saying 16 "contract," Charles. 17 MR. HOUSTON: No. I said we made an 18 offer. 19 MR. WILLIAMS: No. You said 20 "contract." 21 MR. HOUSTON: -- that exceeds 22 what -- let me clarify that: I said that the 23 defendants made an offer that, if it were accepted, 24 would be a greater benefit to the heirs than what they 25 would receive on the proposed contract with Rotunda. Page 28
1 or not. 2 MR. WILLIAMS: Your Honor, please. 3 Your Honor -- 4 MR. HOUSTON: -- well, minority doesn't 5 come into the equation. 6 MR. WILLIAMS: Yeah -- 7 THE COURT: Charles, you tell us when 8 you're finished because it sounds like you're 9 finished, and then you'll start again. So tell me -- 10 MR. HOUSTON: I'm finished on that 11 point. 12 THE COURT: Okay. Thank you so much. 13 MR. HOUSTON: You were raising the 14 thing about the percentage. 15 MR. WILLIAMS: If I may, Your Honor. 16 This contract that Mr. Houston keeps talking about 17 isn't signed. It never has been signed. And it 18 provides for, as I recall, a new 180-day due diligence 19 period within which the prospective buyer can cancel 20 the contract. 21 The Rotunda contract that's in place 22 right now, the addenda to the contract state that the 23 due diligence periods have already run, they can't 24 cancel the contract anymore under it, and the title 25 examination periods have run. Mr. Finger, of course, Page 27	1 MR. WILLIAMS: If it in fact ever 2 closed, which it very well might not do. 3 MR. HOUSTON: Well, you know, that 4 could be applicable on both sides. 5 MR. WILLIAMS: No. Because on the 6 Rotunda side, all the due diligence periods have run. 7 THE COURT: All right. Let's do this 8 rather than y'all arguing back and forth. I 9 appreciate the spirited banter. But let me ask y'all 10 a practical question here with regard to Mr. Houston's 11 motion: If in fact I were to set a bond, and if in 12 fact we had a downturn in the economy, which is -- the 13 economy goes up; it goes down. It's been up; I mean, 14 common sense dictates, it will be down at some point. 15 When? How much? Who knows? Wish I knew. But nobody 16 really knows that. But it would be inconceivable that 17 this property would drop to zero. It certainly is 18 conceivable -- I think we all probably remember 19 2008/2009 when things fell to 50 percent of their 20 previous value in Beaufort County. I'm sure it was 21 worse in other places. I guess if I were to 22 say -- because I don't think a nominal bond protects 23 against waste. And "waste" is, I believe, the 24 applicable word if I use 170, as Mr. Houston wants me 25 to do, which may very well be exactly right. But that Page 29

1 doesn't mean that number is zero. And it doesn't mean 2 the number is the entire value of the property. 3 MR. HOUSTON: Your Honor, if I may 4 interrupt. I think the -- 5 THE COURT: Sure. 6 MR. HOUSTON: -- statute does say that 7 the bond would cover any, I think, diminution in 8 value. 9 THE COURT: Right. And so we've got a 10 value right now of the contract price of nine million 11 whatever. If the value is diminished by operation of 12 the economy, by comet hitting Hilton Head, by, you 13 know, anything, then there's a diminution of value. 14 The question is, what is that diminution of value? 15 Nobody really knows that. Again, it's not going to 16 zero. I mean, unless somebody discovers that the 17 place is a toxic waste dump or something, and I'm sure 18 that's already been explored. So is it going to 19 50 percent? Is that a safe bet? I don't know. I 20 don't know the answer to that. I don't know if y'all 21 have any thoughts. Again, I don't think it goes to 22 zero. But if the economy drops, it certainly goes 23 below nine. Any thoughts on that? 24 MR. HOUSTON: Well -- 25 MR. TAYLOR: Your Honor -- Page 30	1 MR. HOUSTON: Your Honor, during this 2 recession, the price of property on Hilton Head has 3 gone up 35 percent. 4 THE COURT: -- well, we're not in a 5 recession yet. But you know, and so I don't know. If 6 I knew -- 7 MR. WHITE: Judge Dukes -- 8 THE COURT: -- I'd be living on a yacht 9 in the Med, you know, calling into my broker. But 10 it's -- 11 MR. WHITE: Well, Judge Dukes, that's 12 why it goes to the point that you should assume that 13 it's zero; right? Because there could be no potential 14 market at all. Like, we shouldn't say that 15 it's -- you can't determine -- 16 THE COURT: I appreciate your input, 17 Mr. White, and I appreciate your expertise. But I 18 think there's always a market, again, unless there's 19 something like an oil spill or -- 20 MR. WHITE: Well, no. I was just 21 saying, it's not a market that you can predict; right? 22 So, therefore -- 23 THE COURT: Oh, absolutely. Yeah -- 24 MR. WHITE: Therefore, we have a market 25 that has been set. So you assume that we would lose Page 32
1 MR. HOUSTON: -- Your Honor, they've 2 already assumed that risk in a sense that they said 3 that they're ready to go to contract now. So if the 4 economy drops, they're buying property that the value 5 could go down three months from now. 6 THE COURT: Property buying's a risky 7 undertaking. I'll grant you that. 8 MR. WILLIAMS: Yeah. Your Honor, I 9 think one of the real risks here is that if you do 10 grant the supersedeas and the bond is posted, then 11 there's a chance that Rotunda walks away. And then 12 the bottom drops out, and next time we go to sell the 13 property, instead of nine million seven fifty, 14 someone's only willing to offer four million -- 15 THE COURT: Exactly. That's -- 16 MR. WILLIAMS: -- the risk. Yes. 17 THE COURT: That's the risk. And I 18 think that's one of the things "waste" means: 19 Diminution of value. I just don't know what that 20 number is. I mean, again, historically, I think most 21 of us on the thing here remember the last recession 22 and the amount things dropped, which was a lot. But I 23 don't -- 24 MR. HOUSTON: But, Your Honor -- 25 THE COURT: Go ahead, sir. Page 31	1 the entire market. Right? You don't assume 50, 30. 2 You assume that it's either you have the market now, 3 or you have no market. So the value is 9.75, and 4 that's where we're at today. So we're at risk of 5 losing all of it. 6 MR. TAYLOR: Your -- 7 MR. WHITE: We can -- 8 MR. TAYLOR: Your Honor -- 9 MR. WHITE: We can transact on that. 10 We can't transact on a future value that no one knows. 11 THE COURT: You and I may have to agree 12 to disagree on -- 13 MR. WHITE: Okay. 14 THE COURT: -- this property would go 15 to zero. You know, there'd be some takers at a 16 dollar, I can tell you. 17 MR. TAYLOR: Your Honor. 18 THE COURT: Yes. 19 MR. TAYLOR: Your Honor, if I may just 20 one second. Judge, I think that it would be 21 appropriate to take a step and to talk for a second 22 about the overall historic aspect of why this 23 supersedeas bond statute rule is in place. And what 24 it is in place for, Judge -- I know I don't need to 25 remind the Court, but I like to remind everybody -- is Page 33

1 that the legislature and the court system came 2 together and said, once a full Circuit Court trial has 3 been set and once it has gone through and once a order 4 has been entered, then it is presumed, until 5 overturned, that that order is correct. And in order 6 to secure that, we're going to post a high bond 7 requirement because if someone who loses in Circuit 8 Court wants to continue on and delay things by two 9 more years, then they must go and bear the burden of 10 the responsibility of insuring that. 11 And such I assume -- and speaking on 12 behalf of the plaintiffs, I agree that there's very 13 little chance that property would go to zero. But it 14 is within this Court's discretion -- and I would urge 15 the Court to err on the side of protecting all of the 16 property owners, including Mr. Houston's people, and 17 require at least a 50 percent amount, Judge, which 18 would be \$4,850,000. Because to do anything less than 19 that and require them to not put anything substantial 20 will only continue to encourage the behavior of 21 stopping everything they can by filing every single 22 motion they can. With the respect that I have for 23 Mr. Houston after many years of knowing him, there's 24 no other way to put it but that that is the strategy 25 in this case. And clearly, that is exactly what they Page 34	1 MR. HOUSTON: So -- 2 MR. TAYLOR: -- rely on. 3 MR. HOUSTON: -- just taking an 4 arbitrary calculation between full and zero and set it 5 at 50 is basically not appropriate. There's no sound 6 basis that the property would, within the course of a 7 year and a half, diminish from the present appraised 8 value down to zero -- 9 THE COURT: I don't think it's going to 10 zero. I don't disagree with you there. 11 MR. HOUSTON: And I don't think it's 12 going to go to half. There's no -- 13 THE COURT: I would've said that -- 14 MR. HOUSTON: -- drop 50 percent in 15 value. If anything, it's going to go up. 16 THE COURT: You know, historically, 17 there are plenty of drops. But -- 18 MR. HOUSTON: -- you know, because of 19 its uniqueness, the value is going to go up. There is 20 no more waterfront property on Hilton Head. 21 THE COURT: All right. Well, let me do 22 this. Y'all have given me stuff to consider, and I've 23 got something after this. And I've got to deal with 24 that and some other things. But I will try to get 25 back with y'all by the end of the day Monday with Page 36
1 intend to do is try to wait this out until such time 2 as somebody offers to make a deal with them. And it's 3 not right. 4 Judge, you've heard the evidence. 5 You've entered your order. And if they want to put a 6 stay on this case and stop us from completing the 7 sale, they need to put up a serious bond. 8 THE COURT: Okay. All right. I think 9 I got the big picture. 10 MR. HOUSTON: Your Honor. 11 THE COURT: Yes, sir. I'll give you 12 one quick, final word, Mr. Houston. Mr. Houston? 13 MR. HOUSTON: Okay. Another factor 14 that, in this statutory scheme that the legislature 15 has provided for has been also the financial posture 16 of the party seeking the supersedeas bond. You know, 17 if a defendant is well-heeled, in the statute which 18 Counsel had cited before, they're required to pay more 19 than the maximum. But if they don't fall in that 20 category, the statutory scheme is that they would pay 21 a lower amount because the Court looks at the welfare 22 of the person who is required to put up the 23 supersedeas bond. 24 MR. TAYLOR: Judge, you can't tell me 25 that I'm absolutely wrong on the statute -- Page 35	1 something on this. I know that time is of the essence 2 for all parties. And -- 3 MR. WILLIAMS: And there's still one 4 other outstanding motion there, Your Honor. 5 MR. TAYLOR: Your Honor, I realize, 6 Your Honor, that you need to move forward. Judge, can 7 we just -- 8 THE COURT: It was the flip side of the 9 other motion; right? It's either grant a supersedeas, 10 set a bond, or issue the master's deed; right? I 11 mean, I'm happy to hear it. But I mean, it's -- 12 MR. WILLIAMS: That's a fair way 13 to -- yes. 14 MR. TAYLOR: Judge, I don't mean 15 to -- I don't mean to take up your time. If you will 16 just review the motion filed on March the 14th of 2020 17 requesting it. You're exactly right, Your Honor. 18 That is the position. 19 THE COURT: Okay. I mean, I don't mean 20 to shortchange -- 21 MR. HOUSTON: Your Honor -- 22 THE COURT: It's a coin flip; right? I 23 mean, it's one or the other. 24 MR. TAYLOR: Yes, Your Honor. 25 THE COURT: All right. Any -- Page 37

1 MR. HOUSTON: Your Honor, before you 2 rule on that other motion in reference to the master's 3 deed -- 4 THE COURT: Yes, sir. 5 MR. HOUSTON: -- I will have a 6 memorandum in to you probably by tomorrow or next day. 7 But the salient point I want to make in reference to 8 that is that there's no statutory provision granting a 9 Master in Equity authority to grant a master's deed in 10 an action to quiet title, which this one is. Now 11 there is one code section -- 12 MR. WILLIAMS: No. 13 MR. HOUSTON: -- under the section of 14 partitioning that does permit that. But that's only 15 when the action is just for partition. So here, where 16 the action is to quiet title, there are other 17 procedural requirements that have to be met. And 18 there's nothing under this section that gives any 19 authority to a Master in Equity to issue a master's 20 deed. You know, most of the times in partition 21 action, the parties may have a fee simple title 22 already. Or it's just a matter dividing -- making a 23 physical division of the land. But this is an action 24 to quiet title in which a further finding has to be 25 made -- Page 38	1 THE COURT: Okay. Hold on one 2 second -- Mr. Williams is talking. Then I'm happy to 3 hear from you, Mr. Houston. 4 MR. HOUSTON: Go ahead and proceed, 5 Chet. Go ahead and proceed. 6 MR. WILLIAMS: Your Honor, Mr. Houston 7 simply is wrong. This is an action to do two things: 8 It was initially filed to quiet title and to partition 9 the property. The quiet title was solved back in May 10 of last year. That issue was resolved, and all we're 11 dealing with now is the partition. And clearly in the 12 context of partition, you have the ability to issue a 13 master's deed to resolve that partition. Thanks. 14 THE COURT: All right. Well, let's do 15 this: Charles, you said -- 16 MR. HOUSTON: Your Honor. Your Honor, 17 there is -- title property was not resolved. It still 18 is title property. 19 THE COURT: Okay. Well, let's do this. 20 Charles, I understand -- you wanted to draft something 21 and said you'd get it in today or tomorrow. Is that 22 right? 23 MR. HOUSTON: Yes. Right. 24 THE COURT: Okay. And then I'm sure 25 the other side would like a quick response to that, Page 40
1 THE COURT: Okay. 2 MR. HOUSTON: -- on the action to quiet 3 title, there's no statutory authority for the Master 4 in Equity to grant a master's deed. 5 MR. TAYLOR: And, Your Honor -- 6 THE COURT: Go ahead. 7 MR. TAYLOR: -- our position is, that's 8 just wrong, that the Pinckney Act clearly provides 9 that, once the statutory scheme has gone through, once 10 the minority owners have been given the opportunity to 11 purchase the majority owners' interest out and that 12 time has past, which it undoubtedly has here, that the 13 only way to then implement the Pinckney Act scheme is 14 for the judge to enter and be willing to sign the deed 15 as we have asked. And we would, once again, 16 Your Honor, ask the Court to do that. 17 MR. WILLIAMS: Yeah. And if I may, 18 Your Honor -- 19 MR. HOUSTON: No, you're not going 20 to -- 21 MR. WILLIAMS: Mr. Houston -- 22 MR. HOUSTON: No, you're not going to 23 find any language to that -- 24 MR. WILLIAMS: If I may -- 25 MR. HOUSTON: -- Act. Page 39	1 which I assume I'd get before -- 2 MR. HOUSTON: But this is a 3 rebuttal -- this is a rebuttal to their brief. That's 4 what it is. 5 THE COURT: Oh, okay. Well, let's do 6 this. 7 MR. HOUSTON: While you may not have 8 seen it yet, but yesterday evening, they submitted a 9 memorandum in support of their motion. And I was 10 going to -- 11 MR. TAYLOR: That's not right, Judge. 12 The memorandum was only an opposition to Mr. Houston's 13 motion. It did not address the master's deed because 14 he has not objected to that before right now. 15 THE COURT: Why don't we do this, 16 Mr. Houston? You're going to send me something on the 17 master's deed authority, and I understand that -- 18 MR. HOUSTON: Correct. 19 THE COURT: -- the other side will 20 submit something solely on that particular topic -- 21 MR. TAYLOR: Yes, sir. 22 THE COURT: -- in response. I had said 23 I'd try to get something done by Monday afternoon. 24 Why don't we see if y'all can get me whatever you're 25 going to get in response to whatever Mr. Houston's got Page 41

1 Monday if you can. And then I'll try to deal with 2 this Tuesday or Wednesday or so. But as soon as 3 possible. All right. Anything else we can do for 4 this record then? 5 MR. TAYLOR: Not on behalf of the 6 petitioners, Judge. 7 MR. WILLIAMS: Thank you, Your Honor. 8 THE COURT: Thank you. 9 All right. Mr. Houston, anything else, 10 sir? 11 MR. HOUSTON: I think that much more 12 could be said, but I think enough has been said with 13 the time we have allotted, Your Honor. And I think 14 that both sides have been able to convey to you their 15 salient arguments. 16 THE COURT: All right. I appreciate 17 it. As usual, in any case that's contested, I always 18 encourage the parties to see if there's some way to 19 get together and resolve the whole thing. If not, I 20 understand completely. And I will await Mr. Houston's 21 memo and then the response to that and try to get on 22 it as quickly as possible. Y'all have a -- 23 MR. HOUSTON: And also -- 24 THE COURT: Yes, sir. 25 MR. HOUSTON: Your Honor, you also said Page 42	1 CERTIFICATE OF DEPOSITION OFFICER 2 I, SOPHIE CAUDLE, the officer before whom 3 the foregoing proceedings were taken, do hereby 4 certify that any witness(es) in the foregoing 5 proceedings, prior to testifying, were duly sworn; 6 that the proceedings were recorded by me and 7 thereafter reduced to typewriting by a qualified 8 transcriptionist; that said digital audio recording of 9 said proceedings are a true and accurate record to the 10 best of my knowledge, skills, and ability; that I am 11 neither counsel for, related to, nor employed by any 12 of the parties to the action in which this was taken; 13 and, further, that I am not a relative or employee of 14 any counsel or attorney employed by the parties 15 hereto, nor financially or otherwise interested in the 16 outcome of this action. September 27, 2022 <i>Sophie Caudle</i> SOPHIE CAUDLE Notary Public in and for the State of Texas Page 44
1 you would review the sufficiency of this alleged 2 contract. 3 THE COURT: That was sent to me, and I 4 will take a look at it. So thank you so much. 5 All right. Y'all have a good day. 6 Thank you so much. 7 (Whereupon, at 11:50 a.m. EDT/ 8 10:50 a.m. CDT, the proceeding was 9 concluded.) 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 Page 43	1 CERTIFICATE OF TRANSCRIBER 2 I, EMILY LOFING, do hereby certify that this 3 transcript was prepared from the digital audio 4 recording of the foregoing proceeding, that said 5 transcript is a true and accurate record of the 6 proceedings to the best of my knowledge, skills, and 7 ability; that I am neither counsel for, related to, 8 nor employed by any of the parties to the action in 9 which this was taken; and, further, that I am not a 10 relative or employee of any counsel or attorney 11 employed by the parties hereto, nor financially or 12 otherwise interested in the outcome of this action. September 27, 2022 <i>Emily Lofing</i> EMILY LOFING Page 45

[& - amounts]

&	26504 45:14	9.75 21:5 33:3	additionally 9:15
& 3:20	27 44:16 45:12	90 9:18	address 20:14
0	270 8:9,13 12:21	9th 19:5	41:13
07-02301 1:13 6:3	27073 44:16	a	addressed 23:11
1	29926 3:22 4:10	a.m. 2:3,3 6:5,7 43:7,8	affirm 20:20
1000 4:9	29928 3:8	ability 40:12 44:10 45:7	affirmatively 16:16
10:03 2:3	29938 3:15	able 9:18 10:1 18:18 22:20 42:14	afternoon 19:1 41:23
10:30 6:5	3	absolutely 23:5 24:5 32:23 35:25	agenda 6:23
10:50 43:8	30 33:1	accepted 25:5 28:23	agent 1:10
11:03 2:3 6:7	35 3:21 32:3	accomplish 17:22	ago 24:21 25:16
11:50 43:7	38 16:13	accurate 44:9 45:5	agree 7:8,12 11:14 33:11 34:12
14th 37:16	4	accuse 22:25	agreed 20:6
15 2:2	4,850,000 34:18	accused 12:4	ahead 10:10 11:16 12:1 16:1 23:3 26:13 31:25 39:6 40:4 40:5
15th 6:5	40 20:25	act 39:8,13,25	al 6:3,4
16-12-70 14:21	5	action 1:12 11:12 18:19 22:4,5,7,13,14 22:17,20,23 38:10,15,16,21 38:23 39:2 40:7 44:12,16 45:8,12	alive 23:8
16-6-270 8:1	50 20:25 29:19 30:19 33:1 34:17 36:5,14	actions 18:13,14 23:9	allbright 1:18 4:5
170 21:12 29:24	5466494 2:8	activity 8:17	allegations 24:25
17th 19:6	6	add 11:5 24:9	alleged 22:14 26:8 43:1
18-9-130 20:15	6 10:25	addenda 27:22	allotted 42:13
18-9-17 20:17	60 9:18	additional 9:9 9:18	alternative 6:13
180 27:18	6028 3:14		amount 9:9 14:20 26:24 31:22 34:17 35:21
2	7		amounts 23:12
200 3:21 4:9	70 14:21		
2008/2009 29:19	75 15:12		
2020 1:13 6:3 37:16	75201 2:6		
2022 2:2 9:10 19:6,6,9 44:16 45:12	785-5050 3:10		
22 3:7	8		
22nd 18:12	842-5411 3:17		
23 19:9	843 3:10,17		
240 8:9	9		
241 19:7,18 20:12	9,750,000 16:19 20:2,23		

[andre - certificate]

andre 4:14 announcement 9:11 answer 30:20 anymore 7:4 20:8 27:24 apologize 14:10 appeal 6:14 8:19 8:23 10:3 15:1 19:4,13 24:15 appeals 14:22 19:5,8,9,13,16 19:17 21:6 24:15 applicable 29:4 29:24 apply 8:11 19:20 appraised 36:7 appreciate 15:23 29:9 32:16,17 42:16 appropriate 7:13 20:18 33:21 36:5 arbitrary 36:4 arguably 20:17 arguing 29:8 argument 15:5 15:20 arguments 24:14 42:15 asked 9:17,19 19:14 39:15 asking 19:7 aspect 33:22 assertion 23:5 assume 7:5 12:9 14:1 32:12,25	33:1,2 34:11 41:1 assumed 31:2 attached 11:1 13:21 attempted 20:14 attention 9:5 12:20 16:23 attorney 1:10 44:14 45:10 audio 6:9 44:8 45:3 authority 38:9 38:19 39:3 41:17 automatic 19:8 19:18 await 42:20 aware 19:3	behalf 3:2 4:2 16:11,15 19:20 24:25 34:12 42:5 behavior 34:20 believe 9:8 11:6 29:23 benefit 20:4,14 26:23 28:24 best 44:10 45:6 bet 30:19 big 35:9 bit 6:6 20:12 biting 24:17 bizarre 25:7 bond 6:13,14 8:13,14 9:1,19 14:17 18:25 21:3,4 29:11,22 30:7 31:10 33:23 34:6 35:7 35:16,23 37:10 bonded 19:23 bonds 8:12 bottom 31:12 bounce 13:25 bow 3:7 box 3:14 brevity 16:3 brief 7:22 8:5 12:18 16:3,6 20:16 41:3 briefs 7:20 bring 9:5 12:19 22:13 bringing 22:17 broker 32:9	brooks 3:20 budgeted 15:12 built 15:17,19 burden 34:9 buyer 11:12,13 27:19 28:7 buying 31:4 buying's 31:6
	b		c
	b 5:1 back 9:7,17 14:1 17:18 29:8 36:25 40:9 bad 15:18 bag 28:9 banter 29:9 barbara 1:5 3:2 4:15 based 7:6 basically 8:1,13 14:17 15:8 17:23 36:5 basis 36:6 bear 34:9 beaufort 1:1 29:20		c 3:1,5,6,13 4:1,9 6:1 calculation 36:4 call 11:25 calling 32:9 calls 26:8 cancel 27:19,24 candid 7:19 carolina 1:1 25:4 carries 15:20 case 8:6 21:23 23:19 25:3,20 34:25 35:6 42:17 cases 25:21 category 8:6 35:20 caudle 2:7 44:2 44:18 cause 22:23 ccwlaw.net 3:16 cdt 2:3 43:8 center 3:21 certainly 17:1 29:17 30:22 certificate 44:1 45:1

[certify - court]

certify 44:4 45:2 chance 31:11 34:13 change 15:10 charles 1:16 4:4 4:7 13:7,19 27:7 28:16 40:15,20 cheryl 1:15 4:3 chester 3:12,13 10:22 chet 10:18 16:14 25:1 40:5 chouston 4:11 christopher 1:18 4:5 circle 3:7 circuit 1:3 34:2,7 cited 8:5 35:18 citing 7:23 21:12 civil 1:12 claim 11:25 clarification 7:1 clarify 28:22 clark 4:17 clear 16:13 clearly 34:25 39:8 40:11 client 9:24 12:5 clients 15:11 19:20 25:22 26:15,15 close 10:1,2 11:6 18:15,18 22:10 22:11 closed 29:2 closing 17:12,13 18:12	cms 7:2 code 20:13,18 38:11 coin 37:22 collateral 23:21 come 11:20 13:4 27:5 comet 30:12 coming 8:3 committed 20:20 common 1:2 29:14 commons 3:21 communicated 26:11,14 company 9:24 compared 8:22 comparisons 26:7 compel 13:2 complete 9:9 10:13 17:12 22:23 completed 8:24 completely 42:20 completing 35:6 conceivable 29:18 concerned 12:7 concluded 43:9 concrete 9:20 confession 23:20 confirm 17:5 conformed 9:7 consent 23:6,18 23:22,24,25 25:5	consented 24:21 consider 36:22 consideration 15:15,21 16:6 considered 26:22 cont'd 4:1 contained 18:2 contending 16:24 contested 42:17 context 40:12 contingencies 13:17 18:1 28:2 28:6 continue 34:8,20 continuing 20:1 contract 9:10,11 9:12,13,23 10:4 10:13,14,17 11:1 11:11,14,20,21 11:23,25 12:1,7 12:10,24 13:3,4 13:7,14,16,16,16 13:21 14:2 16:12,17,19,24 17:11,11,13,15 17:25,25 18:2,4 20:23 21:6 25:16 26:8,17,19 26:24 27:16,20 27:21,22,24 28:3 28:4,14,16,20,25 30:10 31:3 43:2 controlled 20:11 controlling 7:23 8:1,9	controls 12:21 21:13 convey 42:14 conveyed 22:15 convict 23:20 copied 18:7,7,8,8 18:9 copies 10:6 copy 10:24,25 13:20 16:20 18:3,4 correct 6:24 11:9 17:7 21:16 34:5 41:18 counsel 21:12,15 21:16,22 22:21 28:11 35:18 44:11,14 45:7,10 county 1:1 29:20 course 25:17,21 27:25 36:6 court 1:2 6:2,19 6:25 7:14,18,19 7:21 9:2 10:8,16 10:20 11:2,15,18 11:21,24 12:8,25 13:5,8 14:7,8,11 14:23 15:3,22 16:1,7,16 17:14 18:3,20 19:3,5,7 19:9,13,15,17,21 20:3,7 21:2,6,8 21:10,16 23:3,13 23:16 24:7,14,23 25:11,19 26:3,9 26:13 27:7,12 29:7 30:5,9 31:6 31:15,17,25 32:4
--	--	---	---

[court - entire]

32:8,16,23 33:11 33:14,18,25 34:1 34:2,8,15 35:8 35:11,21 36:9,13 36:16,21 37:8,19 37:22,25 38:4 39:1,6,16 40:1 40:14,19,24 41:5 41:15,19,22 42:8 42:16,24 43:3 court's 9:5 12:20 12:24 16:22 20:14 34:14 cover 8:14 30:7 cp 1:13 6:3 create 22:19 criminal 23:19 current 17:24	decide 19:21 decided 6:9 19:3 declare 19:8 deed 6:22 18:17 21:25 22:11,12 37:10 38:3,9,20 39:4,14 40:13 41:13,17 default 11:13 18:19 defendant 5:7 18:15 23:20 35:17 defendants 1:20 4:2 6:12,20 7:7 7:23 8:4 9:8 14:25 18:13 20:5 21:25 22:14,18 23:9 24:20 28:23 definitive 9:16 delay 20:9 34:8 delays 20:1 delivered 10:7 denied 19:9 denies 19:16 deny 21:2 denying 14:3 dependent 13:17 deposition 44:1 description 5:2,6 determine 32:15 development 15:7,8,12,16 diana 1:8 3:4 dictates 29:14 died 23:25	difference 8:21 different 8:12 difficult 14:8 difficulty 6:7 digital 44:8 45:3 dilatory 18:14 21:20 23:1,9 diligence 27:18 27:23 29:6 diminish 36:7 diminished 30:11 diminution 30:7 30:13,14 31:19 disagree 33:12 36:10 discovers 30:16 discretion 34:14 discussed 19:2 discussion 24:11 dismissed 15:2 distributed 23:15 dividing 38:22 division 38:23 document 7:3 12:3 documentation 11:7 doing 22:18 24:6 dollar 33:16 downturn 29:12 draft 40:20 draw 16:22 drop 29:17 36:14 dropped 31:22	drops 30:22 31:4 31:12 36:17 due 21:23 23:12 27:18,23 29:6 dukes 2:4 18:16 32:7,11 duly 44:5 dump 30:17 duty 7:19 dwell 16:4
d			e
d 6:1 dallas 2:6 damage 8:16 date 2:2 10:12 10:16 11:6 17:12,13 18:12 day 27:18 36:25 38:6 43:5 days 9:18 15:14 deadline 11:6,8 deal 16:12 35:2 36:23 42:1 dealing 8:24,25 14:22 40:11 deceit 24:25 deceitful 21:22 22:16			e 3:1,1 4:1,1 5:1 6:1,1 10:24 13:19 17:15,22 earlier 10:5 earsa 4:17 economic 15:6,9 economy 29:12 29:13 30:12,22 31:4 edt 2:3 43:7 either 33:2 37:9 ellen 1:6 3:3 emily 45:2,15 employed 44:11 44:14 45:8,11 employee 44:13 45:10 encourage 34:20 42:18 engaged 21:20 enter 13:3 39:14 entered 34:4 35:5 entire 19:2 30:2 33:1

[entitled - going]

entitled 18:24 environment 15:9 equation 27:5 equitable 26:1,6 equity 38:9,19 39:4 err 34:15 error 7:25 es 44:4 esquire 3:5,12 3:19 4:7,17 essence 26:20 37:1 established 14:20 estate 21:1 estates 22:8 23:6 23:10,13,14 et 6:3,4 evd 5:2,6 evening 7:22 41:8 event 9:17 everybody 12:8 23:24 33:25 everyone's 14:11 evidence 23:21 35:4 evidentiary 23:23 25:6 exactly 29:25 31:15 34:25 37:17 examination 27:25 exceeds 28:21	executed 11:1 20:24 exercisable 17:24 exercise 22:1 exercised 21:20 exist 28:5 existence 9:25 16:25 17:3 existing 16:17 exists 9:11 12:1 experience 16:14 expertise 32:17 expiration 11:5 explored 30:18 extended 15:11 extension 10:15 11:7 12:10 extensions 11:10	filed 6:22 7:10 7:22 13:23 18:25 19:4,5,6 37:16 40:8 filing 34:21 final 35:12 financial 35:15 financially 44:15 45:11 find 39:23 finder 17:21 finding 38:24 fine 6:10 finger 3:19,20 9:22,22 12:4 16:15 17:5,7 18:9 27:25 fingerlaw.com 3:23 finish 10:10 26:12 finished 13:9 27:8,9,10 finishes 17:17 firm 3:16 4:8 first 7:7,12,17 16:12 22:1 flip 37:8,22 focusing 18:23 foregoing 44:3,4 45:4 forever 25:15 formula 8:20 forth 8:21 13:4 17:18 29:8 forward 37:6 four 22:7 23:5 23:10 31:14	fourteenth 1:3 frame 9:16 frivolous 15:6,20 front 13:23 16:14 full 28:9 34:2 36:4 fully 11:1 further 38:24 44:13 45:9 future 33:10
			g
			g 6:1 game 22:8 gary 1:14 4:3 georgia 1:5 3:2 4:19 getting 6:6 22:9 give 7:21 15:24 35:11 given 20:25 25:12 36:22 39:10 gives 38:18 giving 8:2 go 10:10 11:16 12:1,13 16:1 18:21 23:3,13 26:13 31:3,5,12 31:25 33:14 34:9,13 36:12,15 36:19 39:6 40:4 40:5 goes 29:13,13 30:21,22 32:12 going 8:2 9:3 15:16 17:21

[going - inferred]

19:19 20:5,9 22:4,10,12,12 25:12 30:15,18 34:6 36:9,12,15 36:19 39:19,22 41:10,16,25 good 6:2 15:19 16:10 22:22 43:5 grant 21:3 31:7 31:10 37:9 38:9 39:4 granted 14:24 19:22 granting 7:24 21:25 38:8 grants 18:17 great 24:18 greater 28:24 greatest 26:23 guaranteeing 19:12 guess 25:16 29:21	harm 14:25 harrison 1:5,6,6 1:7 3:2,3,3,3 4:15,19 6:3 head 3:8,15,22 4:10 15:17 30:12 32:2 36:20 hear 6:9,15 7:7,8 7:16 13:10 16:8 24:19 26:3 37:11 40:3 heard 7:12 10:14 35:4 hearing 2:1 19:25 23:23 25:6 heather 18:8 heeled 35:17 heirs 28:24 held 20:1 help 10:18 hereto 44:15 45:11 high 34:6 higher 20:25 hill 4:17 hilton 3:8,15,22 4:10 15:17 30:12 32:2 36:20 historic 33:22 historically 31:20 36:16 history 25:4 hitting 30:12 hodes 4:24	hold 8:1 12:9 13:8 40:1 holding 28:9 honest 7:19 honor 6:18 7:11 7:18 10:23 11:4 12:16 13:12,18 16:5,10,22 17:8 17:20 18:6,22,23 19:2,24 20:3,11 23:2,10,17,18 24:1,10,11,20 25:18,25 26:18 27:2,3,15 28:10 28:12 30:3,25 31:1,8,24 32:1 33:8,17,19 35:10 37:4,5,6,17,21 37:24 38:1 39:5 39:16,18 40:6,16 40:16 42:7,13,25 honorable 2:4 hospital 3:21 hour 16:21 houston 4:7,8 6:8,8,15,17,20 7:15,17 9:4 10:7 10:10,12,25 11:16,17,19 12:2 12:6,10,13,15 13:2,9,11,12,22 14:3,13,16,24 15:4,24 16:2,20 16:21 17:10,16 17:20 18:4,7,10 19:1,4,6,20 20:12,16 21:9,10 21:11 23:4,18	24:2,12,13 25:3 25:22,25 26:5,11 26:14,20 27:4,10 27:13,16 28:4,11 28:13,17,21 29:3 29:24 30:3,6,24 31:1,24 32:1 34:23 35:10,12 35:12,13 36:1,3 36:11,14,18 37:21 38:1,5,13 39:2,19,21,22,25 40:3,4,6,16,23 41:2,7,16,18 42:9,11,23,25 houston's 7:12 18:24 29:10 34:16 41:12,25 42:20 houstonlawfir... 4:11
h			i
h 2:4 5:1 half 24:21 36:7 36:12 halfway 22:25 hamptom 4:23 hand 18:24 handled 23:11 happy 6:15 7:16 13:10 16:8 37:11 40:2 hard 24:17			idea 16:25 identified 6:21 iii 1:7 2:4 3:4 implement 39:13 inappropriate 24:13,15 inception 22:7 including 34:16 inconceivable 29:16 incorrect 12:21 individual 7:3 individually 1:9 inferred 24:5,5

[initially - master's]

initially 40:8 input 32:16 instituted 22:24 insuring 34:10 intend 35:1 intent 18:1 22:6 intentions 22:4 interest 22:15 39:11 interested 44:15 45:12 interrupt 21:9 30:4 interrupting 9:23 involved 8:7,8 20:22 21:18 irrelevant 15:14 irreparable 14:25 island 3:22 issue 12:12,12 16:12,25 17:2 19:2 37:10 38:19 40:10,12 issued 9:7	20:15,19,21 24:18,19 32:7,11 33:20,24 34:17 35:4,24 37:6,14 39:14 41:11 42:6 judgment 8:7 21:13,14 judgments 8:5 judicial 1:3 june 19:9 jurisprudence 25:4,10	knowing 34:23 knowledge 44:10 45:6 knows 21:16 29:15,16 30:15 33:10	looked 25:17 looking 10:24 15:10 looks 35:21 lorraine 1:13 4:2 lose 32:25 loses 34:7 losing 33:5 lot 18:1 31:22 lower 8:12 35:21
j	k	l	m
j 4:15 jackson 4:17 11:4 18:8 january 9:8,17 10:25 13:20 job 2:8 jones 4:21 joyce 1:6 3:3 judge 16:12 17:9 18:16 19:17	kay 4:20 keep 9:2 10:2 17:18 28:15 keeps 27:16 28:4 keita 1:14 4:3 kirkland 1:13,14 1:15,16,17,18,19 4:2,3,4,4,4,5,6 6:4 knew 22:6 24:22 29:15 32:6 know 7:9 8:10 8:15 11:22,22 12:6 15:1,11 20:21 22:10,16 22:24,25 24:19 25:3,14,14 26:15 29:3 30:13,19,20 30:20 31:19 32:5,5,9 33:15 33:24 35:16 36:16,18 37:1 38:20	l.l.c. 3:6,13 4:8 lamont 1:14 4:3 land 8:14,25 9:24 20:2,10,21 20:24 38:23 language 39:23 late 6:7 latest 12:10 law 3:6,13 4:8 21:21 24:24 lawyer 21:17 lawyer's 12:2 learned 21:17 leave 28:8 left 28:2 legislature 34:1 35:14 lieu 23:23 25:5 light 7:21 20:19 likes 24:14 listening 9:2 little 6:6 20:12 34:13 living 23:8 32:8 location 2:5 lofing 45:2,15 logic 13:17 long 18:16 20:9 look 20:18 25:13 25:19 43:4	mail 10:24 13:19 mailed 17:15 mailing 17:22 main 4:9 maintain 19:24 major 15:16 majority 39:11 making 14:7 38:22 manner 21:22 march 13:7 18:12 19:5,6 37:16 marching 24:24 mark 4:21 22:25 marked 5:4,8 market 15:13 21:2 32:14,18,21 32:24 33:1,2,3 marvin 2:4 master 38:9,19 39:3 master's 6:22 18:17 37:10 38:2,9,19 39:4 40:13 41:13,17

[matter - ownership]

matter 6:4 12:17 18:14 19:19 20:1 21:7 22:22 38:22 maximum 26:23 35:19 mean 15:16 26:21 29:13 30:1,1,16 31:20 37:11,11,14,15 37:19,19,23 means 25:13 31:18 med 32:9 melnick 3:20 memo 42:21 memorandum 19:1 38:6 41:9 41:12 mendheim 1:9 3:4 met 38:17 million 15:12 21:5 30:10 31:13,14 mind 25:22 minority 26:25 27:4 39:10 minute 25:16 misleading 7:25 misplaced 15:20 23:1 misrepresentat... 24:3 misrepresenting 12:5 moment 15:10 16:5	monday 36:25 41:23 42:1 money 8:5,7 21:14,15 26:7,16 26:24 months 19:15 31:5 moot 15:2 morally 25:2 morning 6:2 16:10,17 17:1 motion 6:12,12 6:21,22 7:7,12 10:3 12:14 13:10 16:23 18:17,23,24,24 19:7,9,16 20:11 20:13 21:2,3 24:13 29:11 34:22 37:4,9,16 38:2 41:9,13 motions 6:6,11 6:18 7:6,9 move 37:6 muted 10:20	new 27:18 nicole 1:15 4:3 nine 30:10,23 31:13 nominal 6:14 8:25 14:20 21:3 29:22 notary 2:7 44:19 noted 7:1 notice 19:4 number 8:2 26:23 30:1,2 31:20	27:12 33:13 35:8,13 37:19 39:1 40:1,19,24 41:5 once 14:12 17:17 17:19 34:2,3,3 39:9,9,15 ones 8:4 open 7:3 23:6,10 operation 30:11 opportunity 39:10 opposition 13:10 16:9 41:12 order 7:9 8:10 9:6,7,12,13,15 9:20,20 12:24 19:8 21:5,18 22:9 23:6,19,23 23:24 24:23 25:5 34:3,5,5 35:5 ordered 20:7 ordering 21:4 ordinarily 7:8 outcome 44:16 45:12 outlined 12:18 outstanding 6:6 6:11 22:8 37:4 overall 33:22 overturned 34:5 owners 23:7 28:8 34:16 39:10,11 ownership 20:7 24:21 25:23
		o	
		o 6:1 objected 41:14 objection 12:9 occupying 8:16 occurred 21:1 october 9:8 offense 24:4,18 offer 26:17,24 28:14,18,23 31:14 offered 26:7,24 28:13 offers 35:2 office 3:6,13 officer 44:1,2 oh 16:1 32:23 41:5 oil 32:19 okay 6:19 7:14 7:17 9:4 10:8 11:2,15,17 12:8 12:25 13:5 18:20 21:18	
	n		
	n 3:1 4:1 6:1 natural 8:18 nature 7:6 21:17 24:3 need 33:24 35:7 37:6 neither 11:11 18:18 44:11 45:7 never 10:13 27:17 28:6		

[p - protects]

p p 3:1,1 4:1,1 6:1 particular 8:6 16:4 41:20 parties 7:8 10:4 37:2 38:21 42:18 44:12,14 45:8,11 partition 38:15 38:20 40:8,11,12 40:13 partitioning 38:14 party 18:18,19 35:16 paul 1:17 4:5 paulette 1:17 4:4 pay 26:8 35:18 35:20 payment 21:14 21:15 pendency 8:19 pending 6:14 19:13 22:20 people 20:22 23:25 26:23 34:16 percent 20:25 25:24 29:19 30:19 32:3 34:17 36:14 percentage 25:23 26:1 27:14 percentages 20:7 26:5,21 period 15:11 27:19 28:7	periods 27:23,25 29:6 permit 21:25 38:14 person 17:21 35:22 perspectives 17:4 pertaining 7:23 pertains 8:5 petitioners 42:6 petitioning 16:11 physical 38:23 picture 35:9 pinckney 39:8 39:13 place 10:4 27:21 30:17 33:23,24 places 29:21 plaintiff 4:15,19 5:3 plaintiffs 1:11 3:2 6:22 9:6,25 15:4 16:11,15,18 20:4 21:22 22:21 25:1 34:12 plan 22:8 planned 15:18 plc 4:17 pleas 1:2 please 10:11 12:14 18:5,21 23:3 26:12,13 27:2 plenty 36:17	plus 12:18 po 3:14 point 7:18 9:4 11:10 12:16,16 17:10 23:7 24:16 25:24 27:11 29:14 32:12 38:7 points 12:17,18 12:19 16:2 popped 25:15 position 18:15 37:18 39:7 possible 16:13 42:3,22 post 9:19 34:6 posted 31:10 posting 19:11 posture 35:15 potential 15:1 32:13 practical 29:10 practice 21:20 23:1 predict 32:21 prejudice 15:5 prepared 45:3 present 4:13 8:21 17:25 26:17 36:7 preserved 8:18 presumed 34:4 previous 29:20 previously 16:20 20:6 price 20:3,6 30:10 32:2	print 8:3 prior 10:7 17:2 44:5 probably 15:7 20:24 29:18 38:6 probated 23:14 procedural 38:17 proceed 6:9,10 40:4,5 proceeded 21:23 proceeding 2:5 21:24 22:23 43:8 45:4 proceedings 44:3,5,6,9 45:6 process 8:23 20:23 21:24 produce 9:19 producing 12:3 proffering 21:15 property 8:11,15 8:17,18,22 15:13 16:19 19:12 21:5,18 22:15 23:8,12 28:8 29:17 30:2 31:4 31:6,13 32:2 33:14 34:13,16 36:6,20 40:9,17 40:18 proposed 28:25 prospective 27:19 protecting 34:15 protects 29:22
--	---	--	--

[provide - rule]

provide 18:11 provided 10:13 11:5 14:6 16:20 16:21 17:2 35:15 provides 20:18 27:18 39:8 provision 38:8 provisions 14:20 public 2:7 44:19 purchase 18:1 39:11 pursuant 19:7 19:17 20:6 pursued 22:22 put 9:15 11:12 18:19 20:2 34:19,24 35:5,7 35:22	quoted 8:8	regard 29:10 registry 23:13 related 44:11 45:7 relative 44:13 45:10 relief 19:10 rely 36:2 remember 29:18 31:21 remind 20:3 33:25,25 remote 2:5 rendering 21:4 reported 2:7 reporter 14:8 represent 25:22 representations 7:20 represented 16:16 representing 24:20 request 14:18 requested 9:9 10:15 22:1 requesting 37:17 require 34:17,19 required 8:13 19:11 25:6 35:18,22 requirement 14:18 34:7 requirements 38:17 resolve 12:11 40:13 42:19	resolved 8:24 40:10,17 respect 34:22 response 21:11 40:25 41:22,25 42:21 responsibility 34:10 review 17:24 37:16 43:1 right 7:2,15 8:2 10:8 12:15,25 14:4,23 15:3,22 16:8 17:9 18:21 20:25 21:10,21 22:1 24:22 27:22 29:7,25 30:9,10 32:13,21 33:1 35:3,8 36:21 37:9,10,17 37:22,25 40:14 40:22,23 41:11 41:14 42:3,9,16 43:5 rights 26:2,6 risk 9:23 20:2 31:2,16,17 33:4 risks 31:9 risky 31:6 robert 4:22 roberts 1:8 3:4 rose 4:23 rotunda 9:24 16:18 27:21 28:2,25 29:6 31:11 rule 19:7,18 20:12 21:7
	r		
qualified 44:7 question 11:19 12:23 20:8,9 26:9 29:10 30:14 quick 35:12 40:25 quickly 42:22 quiet 22:5,13,14 22:17 38:10,16 38:24 39:2 40:8 40:9 quieted 23:7 quitclaim 22:11 22:12 quote 20:16	r 3:1 4:1 6:1 raised 17:3 20:13 raising 11:19 27:13 raw 8:25 read 16:5 25:12 ready 10:1 31:3 real 21:1 31:9 realize 37:5 really 9:1 14:8 29:16 30:15 reasonable 14:17 rebuttal 41:3,3 recall 27:18 receive 28:25 received 12:20 recession 31:21 32:2,5 reconsideration 19:14,16 record 13:24 24:11 42:4 44:9 45:5 recorded 44:6 recording 44:8 45:4 reduced 44:7 reference 7:22 15:24 38:2,7 referenced 10:5 referring 11:7 refusal 22:2	regard 29:10 registry 23:13 related 44:11 45:7 relative 44:13 45:10 relief 19:10 rely 36:2 remember 29:18 31:21 remind 20:3 33:25,25 remote 2:5 rendering 21:4 reported 2:7 reporter 14:8 represent 25:22 representations 7:20 represented 16:16 representing 24:20 request 14:18 requested 9:9 10:15 22:1 requesting 37:17 require 34:17,19 required 8:13 19:11 25:6 35:18,22 requirement 14:18 34:7 requirements 38:17 resolve 12:11 40:13 42:19	resolved 8:24 40:10,17 respect 34:22 response 21:11 40:25 41:22,25 42:21 responsibility 34:10 review 17:24 37:16 43:1 right 7:2,15 8:2 10:8 12:15,25 14:4,23 15:3,22 16:8 17:9 18:21 20:25 21:10,21 22:1 24:22 27:22 29:7,25 30:9,10 32:13,21 33:1 35:3,8 36:21 37:9,10,17 37:22,25 40:14 40:22,23 41:11 41:14 42:3,9,16 43:5 rights 26:2,6 risk 9:23 20:2 31:2,16,17 33:4 risks 31:9 risky 31:6 robert 4:22 roberts 1:8 3:4 rose 4:23 rotunda 9:24 16:18 27:21 28:2,25 29:6 31:11 rule 19:7,18 20:12 21:7
	q		

[rule - substantial]

33:23 38:2 ruled 19:17 run 25:21 27:23 27:25 29:6	seen 41:8 sell 20:10 21:18 22:9 31:12 seller 11:12,13 send 41:16 sending 12:10 sense 7:7 29:14 31:2 sent 10:24 13:20 14:4 18:7 25:16 43:3 september 2:2 6:5 9:10 44:16 45:12 serious 35:7 set 29:11 32:25 34:3 36:4 37:10 sets 8:20 seven 31:13 share 20:5 shawn 1:19 4:5 shortchange 37:20 show 13:13,15 shown 15:5 side 29:6 34:15 37:8 40:25 41:19 sides 11:24 29:4 42:14 sign 18:17 39:14 signature 44:16 45:14 signed 11:21 27:17,17 28:6 simple 38:21 simply 13:6 23:4 40:7	single 34:21 sir 6:16 7:16 9:2 11:18 12:14 13:1,11 14:15 15:23 16:7 23:3 24:10 26:4,13 31:25 35:11 38:4 41:21 42:10,24 situation 21:13 23:22 skills 44:10 45:6 small 8:3 26:25 sold 23:12 solely 41:20 solved 40:9 somebody 25:16 30:16 35:2 someone's 31:14 soon 42:2 sophie 2:7 44:2 44:18 sorry 26:3 sorts 28:6 sought 19:10 sound 36:5 sounds 27:8 south 1:1 25:4 speaking 34:11 speaks 9:12 specifically 19:10 specify 17:13 spill 32:19 spirited 29:9 standard 12:22 standards 8:11	stanley 1:8 3:4 start 6:7 27:9 state 1:1 8:18 27:22 44:20 stated 19:10 24:5 statute 7:23,25 8:8,20 12:21 14:21 21:12 30:6 33:23 35:17,25 statutes 25:12 statutory 25:6 35:14,20 38:8 39:3,9 stay 6:12 7:24 18:25 19:8,18 35:6 step 33:21 stephanie 1:13 4:2 steps 18:19 stock 15:13 21:1 stop 35:6 stopped 22:24 stopping 34:21 stops 22:18 strategy 34:24 street 4:9 strongly 19:25 stuff 36:22 subject 15:10 submit 41:20 submitted 17:23 41:8 substantial 15:21 34:19
s			
s 1:7 3:1,3 4:1 5:1 6:1 safe 30:19 sale 8:11 16:18 17:12 20:2,6 35:7 sales 20:24 salient 12:17,19 38:7 42:15 saying 14:4 26:21 28:15 32:21 says 13:2 25:10 sc 3:8,15,22 4:10 scheduled 6:4 scheme 35:14,20 39:9,13 scroll 7:4 second 9:4 12:9 13:8 21:19 22:3 33:20,21 40:2 section 14:21 20:15,18 38:11 38:13,18 secure 21:5,6 34:6 see 6:12 7:4 17:24 25:15 26:16 41:24 42:18 seeking 35:16			

[substantiate - type]

substantiate 12:24 substitute 23:22 subterfuge 23:19 24:3 suffer 14:25 sufficiency 43:1 suggest 25:9 suite 3:7,21 4:9 supersedeas 6:13 7:24 8:12 9:1 14:17,18 18:25 19:21,22 31:10 33:23 35:16,23 37:9 support 41:9 sure 8:2 13:9 14:14 29:20 30:5,17 40:24 sureties 19:11 surety 20:19 sworn 44:5 system 7:2 34:1	talking 14:16 15:7 20:15 27:16 28:5 40:2 taylor 3:5,6 7:11 10:6,18,21 16:10 16:11 17:9,17 18:9,21,22 23:17 24:1,1,8,10 25:7 25:24 28:10,12 30:25 33:6,8,17 33:19 35:24 36:2 37:5,14,24 39:5,7 41:11,21 42:5 tell 14:15 17:16 17:17 27:7,9 33:16 35:24 ten 15:7 tentative 11:23 terms 9:21 terry 3:19 9:22 16:15 testifying 44:5 texas 44:20 tfinger 3:23 thank 6:25 7:14 10:8 11:2,15 12:25 14:23 15:22 16:7 18:10,20,22 23:16 24:7 27:12 28:9 42:7 42:8 43:4,6 thanks 40:13 thing 7:17 10:14 21:19 22:3 24:22 26:22 27:14 31:21	42:19 things 29:19 31:18,22 34:8 36:24 40:7 think 6:18,21,23 8:8,9 11:5 14:21 15:19 17:23 18:12 29:18,22 30:4,7,21 31:9 31:18,20 32:18 33:20 35:8 36:9 36:11 42:11,12 42:13 third 12:16 thomas 3:5,6 thomastaylorla... 3:9 thoughts 30:21 30:23 three 31:5 throwing 24:12 24:24 thursday 2:2 time 2:3 8:22,23 9:9,16 10:2 11:22 15:11,18 16:3 20:24 23:6 28:7 31:12 35:1 37:1,15 39:12 42:13 times 15:18,19 38:20 title 22:5,13,14 22:17,19 23:7 27:24 28:1 38:10,16,21,24 39:3 40:8,9,17 40:18	today 6:5,23 15:13 33:4 40:21 told 14:14 tom 3:9 16:11 24:1 tomorrow 38:6 40:21 tongue 24:17 topic 41:20 topics 24:12 toxic 30:17 transact 33:9,10 transactions 10:5 transcriber 45:1 transcript 45:3,5 transcriptionist 44:8 trial 34:2 tried 23:22 trouble 7:2 true 13:7 44:9 45:5 try 17:18 25:12 25:13,14 35:1 36:24 41:23 42:1,21 trying 6:8 14:8 tuesday 42:2 turn 10:21 twelve 15:8 two 6:17 12:17 12:19 19:11,15 34:8 40:7 tx 2:6 type 21:3
t t 1:17 4:5 5:1 take 14:11 16:6 22:6,9 24:4,18 25:19 33:21 37:15 43:4 taken 11:12 15:15 18:18 20:19 44:3,12 45:9 takers 33:15 talk 12:2 33:21 talked 20:12,16			

[typewriting - zero]

typewriting 44:7	4:7,16,18,19,20	we've 10:13,14	x
tyrone 4:24	4:21,22,23,24	26:7 30:9	x 5:1
u	violation 21:24	wednesday 42:2	y
underhand 24:6	voices 14:12	weight 15:21	y'all 7:9 10:16
understand	void 11:23	welfare 35:21	13:8 18:3 25:12
17:15 40:20	voidable 9:14	white 1:15 4:3	25:14 29:8,9
41:17 42:20	volume 10:21	4:14,20 32:7,11	30:20 36:22,25
undertaking	vs 6:3	32:17,20,24 33:7	41:24 42:22
31:7	w	33:9,13	43:5
undeveloped	wait 35:1	william 1:7,16	yacht 32:8
8:15	waiting 10:1	3:3 4:4	yeah 10:23 14:7
undoubtedly	18:16	williams 3:12,13	15:4 25:9 27:6
39:12	waived 14:19,19	10:23 11:3,9	31:8 32:23
uniqueness	waiver 6:13	13:6,18,25 14:5	39:17
36:19	18:25	14:10 16:14	year 10:25 24:21
update 28:1	walk 28:7	18:6,11 23:2,4	36:7 40:10
urge 21:2 34:14	walks 31:11	24:4 25:9,18	years 15:8,8
use 8:22 29:24	want 7:18 9:5	26:18 27:2,6,15	16:13 34:9,23
usual 42:17	12:19 13:13	28:15,19 29:1,5	yesterday 7:22
usually 15:18	14:14,14 16:4	31:8,16 37:3,12	19:1 41:8
v	17:17 24:18,19	38:12 39:17,21	young 4:22
v 1:12	26:7 28:1 35:5	39:24 40:2,6	z
vague 9:6	38:7	42:7	zero 29:17 30:1
valid 9:11,12,13	wanted 22:19	willing 10:1	30:16,22 32:13
9:23 11:11,14	24:9 40:20	31:14 39:14	33:15 34:13
12:23 13:15	wants 29:24 34:8	wish 29:15	36:4,8,10
16:17,24 17:4	waste 8:14 20:20	witness 44:4	
validity 11:20	25:13 29:23,23	word 16:24	
value 8:21 29:20	30:17 31:18	29:24 35:12	
30:2,8,10,11,13	wasted 19:12	worse 29:21	
30:14 31:4,19	wasteful 20:22	would've 36:13	
33:3,10 36:8,15	waterfront	writing 7:20	
36:19	36:20	19:11	
vaux 24:20	way 6:10 23:11	wrong 21:12	
verbal 12:7	34:24 37:12	23:5 25:1,2	
videoconference	39:13 42:18	35:25 39:8 40:7	
2:1 3:5,12,19			

South Carolina Rules of Civil Procedure

Part V. Depositions and Discovery

Court Rule 30

(e) Submission to Witness; Changes; Signing.

When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the court holds

that the reasons given for the refusal to sign
require rejection of the deposition in whole or in
part.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

GEORGIA HARRISON, BARBARA)
 HARRISON, JOYCE ELLEN)
 HARRISON, WILLIAM S.)
 HARRISON, III, STANLEY)
 ROBERTS, and DIANA MENDHEIM,)
 individually and as agent and attorney)
 in fact,)

Plaintiffs,)

vs.)

STEPHANIE LORRAINE)
 KIRKLAND, GARY LAMONT)
 KIRKLAND, KEITA NICOLE)
 WHITE, CHERYL KIRKLAND,)
 WILLIAM CHARLES KIRKLAND,)
 PAULETTE KIRKLAND, PAUL T.)
 ALLBRIGHT, CHRISTOPHER)
 KIRKLAND AND SHAWN)
 KIRKLAND,)

Defendants.)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO. 2020-CP-07-02301

PLAINTIFFS' AMENDED MOTION FOR
 MASTER'S DEED CONVEYING
 OWNERSHIP INTERESTS OF ALL
 OWNERS OF PROPERTY TO ROTUNDA
 LAND & DEVELOPMENT GROUP, LLC,
 AND FOR ORDER DIRECTING CLERK
 OF COURT TO HOLD PROCEEDS OF
 SALE OF DECEASED OWNERS
 PENDING RESOLUTION OF ESTATES

TO: DEFENDANTS STEPHANIE LORRAINE KIRKLAND, GARY LAMONT
 KIRKLAND, KEITA NICOLE WHITE, CHERYL KIRKLAND, WILLIAM
 CHARLES KIRKLAND, PAULETTE KIRKLAND, PAUL T. ALLBRIGHT,
 CHRISTOPHER KIRKLAND AND SHAWN KIRKLAND BY AND THROUGH
 THEIR COUNSEL OF RECORD, CHARLES E. HOUSTON, ESQ.:

YOU WILL PLEASE TAKE NOTICE that the Plaintiffs, through their undersigned
 attorneys, will move before the Master in Equity for Beaufort County, South Carolina, in the
 Beaufort County Courthouse, at 10:00 a.m. on the tenth (10th) day after service of the original
 Motion, or at such other time and place as is convenient to the Court and counsel, for an Order
 containing a Master's Deed conveying the ownership interests of all owners in the Property that is

the subject of this action, to Rotunda Land & Development Group, LLC for the contract price of Nine Million, Seven Hundred Fifty Thousand (\$9,750,000) Dollars, with said proceeds to be distributed to all owners on a percentage basis as is set forth in this Court's Order of May 21, 2021, provided that the percentage interests of all those Owners who have died during the pendency of this action or prior, shall be deposited with the Clerk of Court following closing, for safekeeping pending a petition to this Court by a judicially-recognized Estate representative with authority to accept funds on behalf of the Estate.

As the basis for this Motion, the Plaintiffs would show that this Quiet Title and Partition action has been fully litigated and appropriate Orders entered quieting title in specific individuals (see Order of May 21, 2021), and partitioning the land by sale (see Orders of October 20, 2021 and January 20, 2022.) A closing with Rotunda Land & Development Group, LLC is scheduled for March 22, 2022, and counsel for Rotunda has requested issuance of a Master's Deed.

Further, despite the fact that counsel for the Defendants has filed a Notice of Appeal in this matter, pursuant to Rule 241 SCRAP, this Court retains jurisdiction over matters not affected by the appeal including the authority to enforce any matters not stayed by the appeal. Further pursuant to Rule 241, this Court's judgment directing the sale or delivery of possession of real property in not stayed by the Notice of Appeal unless and until the Defendants petition this Court and post an appropriate bond to secure the Plaintiffs interest in the pending sales contract, should the appellate delay result in a loss of the Rotunda contract.

PLEASE BE PRESENT TO OPPOSE SAID MOTION IF SO MINDED.

I SO MOVE.

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/s/Thomas C. Taylor

Thomas C. Taylor

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ATTORNEYS FOR THE PLAINTIFFS

March 14, 2022

Hilton Head Island, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CIVIL ACTION NO. 2020-CP-07-02301
	)	
GEORGIA HARRISON, BARBARA	)	
HARRISON, JOYCE ELLEN	)	
HARRISON, WILLIAM S.	)	
HARRISON, III, STANLEY	)	
ROBERTS, and DIANA MENDHEIM,	)	
individually and as agent and attorney	)	
in fact,	)	
	)	
Plaintiffs,	)	
vs.	)	PLAINTIFFS' MEMORANDUM
	)	IN OPPOSITION TO DEFENDANTS'
STEPHANIE LORRAINE	)	MOTION FOR STAY AND WAIVER OF
KIRKLAND, GARY LAMONT	)	SUPERSEDEAS BOND OR IN THE
KIRKLAND, KEITA NICOLE	)	ALTERNATIVE, A NOMINAL BOND
WHITE, CHERYL KIRKLAND,	)	PENDING APPEAL
WILLIAM CHARLES KIRKLAND,	)	
PAULETTE KIRKLAND, PAUL T.	)	
ALLBRIGHT, CHRISTOPHER	)	
KIRKLAND AND SHAWN	)	
KIRKLAND,	)	
	)	
Defendants,	)	
	)	
	)	

Currently pending before the Court is the Defendants' "Motion For Stay and Waiver of Supersedeas Bond or in the Alternative, a Nominal Bond Pending Appeal." The Motion should be denied.

FACTUAL BACKGROUND

This is an action to quiet title filed under S.C. Code Annot. Section 15-67-10 et seq. and to Partition the land by sale, pursuant to S.C. Code Annot. Section 15-61-10 et seq. The Summons and Complaint were filed on November 24, 2020, and the Complaint advised the Court and the Defendants in November of 2020, of the pending contract that had been entered into by the Plaintiffs to sell the property to Rotunda Land & Development Group, LLC for \$9,100,000.00, which the Plaintiffs believed was a fair and equitable price for the property. The Rotunda contract has since been amended to a sales price of \$9,750,000.

The parcel at issue is a tract of approximately 26.462 acres located on the north end of Hilton Head Island, which has been through two previous quiet title actions. Pursuant to South Carolina Rule of Civil Procedure 71(e), because this action includes a partition action, this Court is empowered to determine the title and interests in the real property of the several parties to this action.

In response to the Complaint, the Defendants Stephanie Lorraine Kirkland, Gary Lamont Kirkland, Keita Nicole White and Cheryl Kirkland, filed an Answer on January 7, 2021 in which they raised several defenses, but none of the four Defendants raised the defense of either insufficiency of process nor insufficiency of service of process. Hence, pursuant to S.C.R.C.P. Rule 12(h), those defenses have been waived by these named Defendants.

On February 28, 2021, an appraisal of the property (plus a 1.050-acre tract and a 2.568-acre tract owned by separate parties), was commissioned by the Defendants and their attorney, and the appraised value was set at \$11,090,000. However, when the two tracts owned by others are removed from consideration, the appraised value is most probably around \$10,100,000. A copy of that appraisal is attached hereto as Exhibit A.

On May 21, 2021, following a video status conference with the Court, the Plaintiffs and the Defendants presented a joint Consent Order to the Court evidencing a written agreement between all parties that the tract of land is owned in indivision by the Plaintiffs, the represented Co-Owners and the Defendants, and that Consent Order provided a detailed Exhibit A setting forth the mutually-agreed upon undivided interest percentages of each party. Judge Dukes signed and filed the Consent Order on May 21, 2021.

Over the course of the next four months, the Plaintiffs continued to attempt to move the case forward, and on October 20, 2021, following another status conference, the Court filed its Order of even date, realigning certain parties at the Defendants' counsel's request (with consent of the Plaintiffs), and allocating to the Defendants the "right to buy" interests of the co-tenant Plaintiffs pursuant to S.C. Code Annot. Section 15-61-370(D)(2), based upon their respective existing fractional ownership of the entire parcel. By that Order, the Defendants were given until 5 p.m. December 22, 2021 to pay in their apportioned prices to the Court to buy out the Plaintiffs' interests under the Pinckney Act. Not a single Defendant tendered their apportioned price into Court by 5 p.m. on December 22, 2021, but their counsel did file a Motion For Relief of Judgment and For Extension of Time to Tender Price Under Right of First Refusal and Motion for Realignment of Parties at 7:54 p.m. that evening.

Another status conference and motion hearing was then held via WebEx video on January 6, 2022, and from that hearing this Court's Order of January 20, 2022 emanated, which denied the

Defendants' December 22, 2021 motions and further held that to the extent any of the three Motions then pending (the Motion For Relief of Judgment and For Extension of Time to Tender Purchase Price Under Right of First Refusal and Motion for Realignment of Parties; the Defendants' Supplemental Motion for Relief of Judgment and For Extension of Time to Tender Purchase Prices Under Right of First Refusal filed January 5, 2022; and the Defendants' Amended Supplemental Motion for Relief of Judgment and For Extension of Time to Tender Purchase Price Under Right of First Refusal filed later in the day on January 5, 2022) "are construed to seek relief or remedy from this Court in addition to reconsideration or amendment of my October 20, 2021 Order, I also respectfully deny those motions." *See* January 20, 2022 Order, page 2. The Defendants then filed a Motion for Reconsideration, which was appropriately denied.

On March 9, 2022, the Defendants filed a Notice of Appeal to the Court of Appeals, and on March 17, 2022, the Defendants filed a "Motion Pursuant To Rule 231(A)" asking the Court of Appeals to declare an "automatic stay." By Order dated June 23, 2022, the Court of Appeals denied that Motion, noting that the relief sought in this case is an exception to the general rule, noting that "[i]f the judgment appealed from direct[s] the sale or delivery of possession of real property, the execution of the judgment shall not be stayed unless" the appellant executes a writing, with two sureties, guaranteeing the property will not be wasted while the appeal is pending. *See* the Court of Appeals Order dated June 23, 2022 attached hereto as Exhibit B.

The Defendants petitioned the Court of Appeals to reconsider the June 23, 2022 Order on July 5, 2022, and on August 17, 2022, the Court of Appeals denied that petition for reconsideration. *See* Exhibit C.

The issue of an "automatic stay" having been dealt with by the Court of Appeals, the Plaintiffs/Petitioners then asked this Court to schedule a hearing on the Plaintiffs' pending Motion for Master's Deed, as was filed on March 14, 2022. A hearing was scheduled for September 15, 2022. The Defendants' Motion for Stay and Waiver of Supersedeas Bond followed.

ARGUMENT AND CITATION OF AUTHORITY

Although the pending Motion is rather convoluted, it appears the Defendants are seeking this Court's Order "staying" the action and "waiving the necessity of the Defendants posting a supersedeas bond" or setting a "nominal" bond. *See* page 2 of the Motion.

This Court need not consider whether it should "stay" this action nor whether it should consider a "nominal" bond. The Court of Appeals has by its Order of June 23, 2022, declared that this action is not stayed "unless the appellant executes in writing, with two sureties, guaranteeing the property will not be wasted while the appeal is pending." In addition, the Legislature has seen fit to enact S.C. Code Annot. Section 18-9-130 (A)(2), which provides that in a case involving

property, such as this, “The Plaintiff in such a case may not proceed with a sale of defendant’s property if the defendant enters into an undertaking, with good sureties, in double the appraised value of the property or the amount of the judgment, to pay the judgment with legal interest and all costs and damages the plaintiff may sustain by reason of the appeal or to produce the property levied on and submit to the sale if the judgment is affirmed.”

Rule 241 of the Appellate Court Rules assigns this Court with the responsibility of evaluating the need for an appropriate bond. This Court has in prior hearings taken judicial notice of the turbulent times in the real estate market, and the Plaintiffs urge this Court to deny the Motion for Stay, or condition same upon the posting of a supersedeas bond in the minimum amount of \$9,750,000 to protect ALL property owners—the Plaintiffs and the Defendants—in the event the Rotunda contract is ultimately lost because of the delays caused by the Defendants’ appeal.

LAW OFFICE OF THOMAS C. TAYLOR,
LLC

s/Thomas C. Taylor

Thomas C. Taylor
Attorney for Plaintiffs
SC Bar No.: 5499
PO Box 1808
Bluffton, SC 29910
1-843-785-5050
tom@thomastaylorlaw.com

LAW OFFICE OF CHESTER C.
WILLIAMS, LLC

s/Chester C. Williams

Chester C. Williams
Attorney for Plaintiffs
17 Executive Park Road, Suite 2
PO Box 6028
Hilton Head Island, SC 29938-6028
1-843-842-5411
firm@ccwlaw.net

Bluffton, South Carolina
September 14, 2022

Charles E. Houston

From: Tom Taylor <tom@thomastaylorlaw.com>
Sent: Wednesday, September 28, 2022 5:53 PM
To: Charles E. Houston; Law Office of Chester C. Williams
Cc: Dukes, Marvin; Jackson, Earsa R.; Nick Bergelt; Kay White; Singleton, Mary C.; Andre J. White (andrewhite@mitchelville.com); Donna Taylor
Subject: RE: Harrison v Kirkland 2020-CP-07-02301

Charles—Good evening. We are working on the Order draft and as soon as we are finished, which I expect to be tomorrow, then we'll send it to you for your review prior to submitting it to Judge Dukes. I understand the County offices have been closed for the rest of the week (which I presume includes the Master), but we will get you the draft order as soon as possible.

Thank you.

Tom

Thomas C. Taylor

Law Office of Thomas C. Taylor, LLC
10 Pinckney Colony Road
1808
Building 400
Bluffton, SC 29909
843-785-5050 (office)
843-301-6900 (cell)

PLEASE NOTE OUR NEW MAILING ADDRESS:
P.O. Box 1808, Bluffton, SC 29910-

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IRS CIRCULAR 230 NOTICE: Internal Revenue Service regulations generally provide that, for the purpose of avoiding tax penalties, a taxpayer may rely only on formal written advice meeting specific requirements. Any tax advice in this message, or in any attachments to this message, does not meet those requirements. Accordingly, any such tax advice was not intended or written to be used, and it cannot be used, for the purpose of avoiding federal tax penalties that may be imposed on you or for the purpose of promoting, marketing or recommending to another party any tax-related matters.

From: Charles E. Houston <chouston@houstonlawfirm.net>
Sent: Wednesday, September 28, 2022 4:25 PM
To: Tom Taylor <tom@thomastaylorlaw.com>; Law Office of Chester C. Williams <firm@ccwlaw.net>
Cc: Dukes, Marvin <mdukes@bcgov.net>; Jackson, Earsa R. <EJackson@clarkhill.com>; Nick Bergelt <nickbergelt@gmail.com>; Kay White <kaywhite08@msn.com>; Singleton, Mary C. <msingleton@sccourts.org>
Subject: Harrison v Kirkland 2020-CP-07-02301

Dear Counsels:

Last Thursday September 22, 2020 Judge Dukes issued you instructions to prepare an order for the sale of the property to Rotunda and for him to issue a Master's Deed. A copy of this proposed order was to be provided to me for review. A week has past and this has not been received . Please advise me of the status of the drafting of these items.

Thank you.

Charles Houston



The Houston Law Firm, LLC

1000 Main Street, Suite 200C

Hilton Head Island, SC 29926

Office: 84384-0211

Email: chouston@houstonlawfirm.net

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October 5, 2022

Via US. Mail and Email (ctappfilings@sccourts.org)

Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED

Oct 05 2022

SC Court of Appeals

**Re: Georgia Harrison v. Stephanie Kirkland
Appellate Case No.: 2022-000277**

Dear Ms. Kitchings:

I am submitting for filing in the above referenced case the following items:

- (1) Proof /Affidavit of Service by e-mail and mailing
- (2) Ex parte Motion for Temporary Stay and Supersedes

With Exhibits 1-7 attached.

- (3) Check for \$50.00

Thank you in advance for your consideration of this request. If you have any questions, please do not hesitate to contact my office.

With kind regards, I am,

Respectfully,

The Houston Law Firm LLC

S/ Charles E. Houston Jr.

Charles E. Houston Jr.

Attorney for Appellant

SC Bar# 2663

cc: Via Email

Thomas Taylor, Esquire
Chester Williams, Esquire
Encls: as stated



October 5, 2022

Via US. Mail and Email (ctappfilings@sccourts.org)

Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED
Oct 05 2022
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With Exhibits 1-7 attached.

- (3) Check for \$50.00

Thank you in advance for your consideration of this request. If you have any questions, please do not hesitate to contact my office.

With kind regards, I am,

Respectfully,

The Houston Law Firm LLC

S/ Charles E. Houston Jr.

Charles E. Houston Jr.

Attorney for Appellant

SC Bar# 2663

cc: Via Email

Thomas Taylor, Esquire
Chester Williams, Esquire
Encls: as stated

**STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

RECEIVED

Oct 06 2022

SC Court of Appeals

**APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS**

**HON. MARVIN H. DUKES
MASTER IN EQUITY**

Case # 2020-CP-07-02301

**GEORGIA HARRISON, BARBARA HARRISON,
JOYCE ELLEN HARRISON, WILLIAM S.
HARRISON, III, STANLEY ROBERTS AND
DIANA MENDHEIM INDIVIDUALLY AND AS
AGENT AND ATTORNEY IN FACT,**

Plaintiffs,

RESPONDENTS

vs.

**STEPHANIE LORRAINE KIRKLAND, GARY
LAMONT KIRKLAND, KIETA NICOLE WHITE,
AND CHERYL KIRKLAND,**

Defendants.

APPELLANTS

**EX PARTE:
MOTION FOR ORDER FOR IMMEDIATE STAY AND SUPERSEDES BOND**

The Appellants would respectfully move this Court pursuant to Rule 241, SCRAP and particularly under the provisions of 241(c)(1), d(2) and d(6) of this Rule. for an *ex parte* Order of relief.

The ruling of the Master in Equity on September 22, 2022 has not been filed as an order due to the inordinate delay by Respondents' counsels in preparing a proposed order for the Master in Equity to review and file. Appellants would suffer irreparable harm and injury during this prolonged interval if they are compelled to wait upon the prolonged issuance of the order to present to this court as is the normal practice for the reasons set forth herein. The Appellant is prepared and willing to post a supersedes bond under such terms and conditions as this Court may find equitable and just.

Appellants would move this Court for an immediate temporary order staying the proceedings now pending in the lower court, especially the ruling of the Master in Equity issued at a hastily arranged conference meeting on September 22, 2022⁹ (see Exhibit 1 e-mail) denying Appellants' motion for a Supersedes Bond for any amount, authorizing the Respondents to sell the property; and further, that the Master in Equity would convey the unimproved "Heirs Titled "property subject of this action to the Respondents' purported buyer. (An action the Court had previously refrained from doing at the time the Respondents desired to exercise their "Right of First Refusal.)

There was a full hearing upon the motions held before the Master in Equity on September 22, 2022. (See transcript attached as Exhibit 2). The Appellants' Motion for Stay and Supersedes Bond, Exhibit 3; Appellants' Return in Opposition to Respondents'

Motion for Master's Deed, Exhibit 4; Respondents' Return in Opposition to Supersedes, Exhibit 5; Respondents' counsels delay in drafting the proposed order of the Master in Equity.

The urgency for this Court to take jurisdiction immediately and issue a temporary stay until the issue of a supersedeas bond may be fully reviewed by this Court is that if the sale of the property is completed before the ruling of the Master in Equity is embodied into an Order, the Appellants would be left without any remedy and their appeal taking to this Honorable Court may be subject to dismissal on the grounds of mootness, save a collateral action for reformation of the deed be brought in the future. The Respondents' counsels are delaying drafting the Order from the Master in Equity's ruling to the Appellants' detriment. This delay has the strong potential of prevented this court from reviewing the multiple assignments of error of law, the lack of due process of law and the denial of equal protection under the law that have occurred in this case.

Further, this Court issuing a temporary stay would prevent a fraud upon the Court being unjustly rewarded. This action was brought for Partition Sale and to Quiet Title. The Respondents have persuaded the court to issue its final order ending the case upon the intended sale of the property while no proceedings have been held to quiet the title. There exist four non probated estates among the heirs. This will also deprive the Appellants of a valuable property right -i.e. The assurance of receiving a higher price for the property once the title becomes quieted and marketable. The fraud is that the Respondents never intended to clear the title in the name of the heirs. They will wait until the property is sold and the

present heirs interest extinguished and afterward, bring a new action with the intended buyer, Rotunda, as the plaintiff.

The Master in Equity has committed an egregious error of law by not exercising any discretion within the realm of discretion dictated by Rule 241(c) (3) by not exercising any discretion in outright denying any Supersedes Bond. An action that may only be remedied by this Court that it is urgently requested by the Appellants and the Court under the premises considered; would be justified in granting.

Respectfully submitted,

The Houston Law Firm LLC
1000 Main Street, Suite 200C
Hilton Head Island, SC 29926
843-684-0211
chouston@ houstonlawfirm.net

By: S/ Charles E. Houston Jr.
Charles E. Houston Jr.
SC Bar # 2663
Attorney for Appellants

October 4, 2022
Hilton Head Island, SC

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

The Honorable Marvin H. Dukes, III
Beaufort County
Trial Court Case No. 2020-CP-07-0231

APPELLATE CASE NO. 2022-000277

RECEIVED
Oct 10 2022
SC Court of Appeals

Georgia Harrison, Barbara Harrison,
Joyce Ellen Harrison, William S. Harrison III,
Stanley Roberts and
Diana Mendheim Individually And As Attorney In Fact,

Respondents,

vs.

Stephanie Lorraine Kirkland, Gary Lamont Kirkland,
Kieta Nicole White, And Cheryl Kirkland,

Appellants.

PROOF OF SERVICE

I hereby certify that this law firm represents the Respondents in the above-captioned matter and that on October 10, 2022, in Bluffton, South Carolina, I served a copy of the forgoing on the following person via U.S. Mail, first class postage pre-paid, and electronic mail to his AIS E-mail address as follows:

Documents Served: **RESPONDENTS' RETURN TO APPELLANTS' EX PARTE:**
MOTION FOR ORDER FOR IMMEDIATE STAY AND
SUPERSEDES [sic] BOND

Parties Served:

Charles E. Houston, Esquire
The Houston Law Firm, LLC
1000 Main Street, Suite 200C
Hilton Head Island, SC 29926;
chouston@houstonlawfirm.net

ATTORNEY FOR APPELLANTS

LAW OFFICE OF THOMAS C. TAYLOR, LLC



Thomas C. Taylor

SC Bar No.: 5499

Law Office of Thomas C. Taylor, LLC

P.O. Box 1808

Bluffton, SC 29910-1808

T: 843-785-5050

F: 843-738-4502

tom@thomastaylorlaw.com

ATTORNEY FOR RESPONDENTS

Bluffton, South Carolina
October 10, 2022

LAW OFFICE OF
THOMAS C. TAYLOR, LLC

ADMITTED TO THE UNITED STATES
SUPREME COURT BAR

ADMITTED IN SOUTH CAROLINA,
COLORADO AND GEORGIA

CERTIFIED SC CIRCUIT
COURT MEDIATOR

10 PINCKNEY COLONY ROAD
BUILDING 400
BLUFFTON, SC 29909

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TELECOPIER 843-738-4502

www.thomastaylorlaw.com • tom@thomastaylorlaw.com

MAILING ADDRESS
P.O. BOX 1808
BLUFFTON, SC
29910-1808

October 10, 2022

RECEIVED

Oct 10 2022

SC Court of Appeals

Via U.S. Mail and E-Mail Attachment to: msingleton@sccourts.org

Ms. Mary-Caitlyn Singleton
SC Court of Appeals Specialist
1220 Senate Street
Columbia, SC 29201

**Re: Georgia Harrison, et al. vs. Stephanie Lorraine Kirkland, et al.; Appellate
Case No.: 2022-000277; Respondents' Return to Appellants' Ex Parte Motion
For Order For Immediate Stay And Supersedes [sic] Bond**

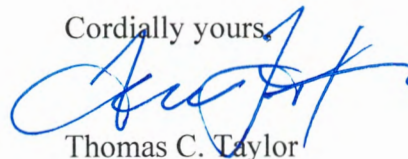
Dear Ms. Singleton,

As your file indicates, Chet Williams and I represent the Respondents in this appeal. On behalf of those Respondents, I attach hereto for electronic filing the following:

- a. Respondents' Return to the Appellants' Ex Parte: Motion For Order For Immediate Stay and Supersedes [sic] Bond;
- b. Exhibits A and B; and,
- c. Proof of Service of a copy of the documents upon Appellants' counsel.

Please let me know if you have any questions. Thank you as always for your professionalism in these matters.

Cordially yours,



Thomas C. Taylor

TCT/dpt
Enclosures

cc: Chester C. Williams, Esq., via email transmittal
Andre J. White, via email transmittal
Charles E. Houston, Esq., via email transmittal
Terry A. Finger, Esq., via email transmittal