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OCT 24 2022

The South Carolina Court of Appeals

Rosa Gee Estate, Plaintiff,

v.

Pelican House Apartments, Respondent,

Of Whom Ariel Mack is the Appellant.

Appellate Case No. 2022-001296

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Oct 19 2022

SC Court of Appeals

RESPONDENT'S MOTION TO DISMISS IN THE COURT OF APPEALS

On October 19, 2022, the undersigned was presented the attached Exhibit A which appears to be an e-mail to the Court dated October 17, 2022. In the filing Ms. Mack acknowledges that she was never a party to a lease for the premises in question. "Every person...using or occupying real estate without an agreement, either oral or in writing, shall be deemed a 'tenant at will'" *S.C. Code § 27-33-10*. *S.C. Code § 27-35-40* provides that "When a person enters upon or uses the premises of another without agreement or without the permission of owner or by trespass the owner may at his option waive such tort and treat and deem such person a tenant at will."

At no time since the death of Ms. Gee has the Housing Authority of Florence consented to Ms. Mack's continued occupation of the premises. To the contrary, the Housing Authority has now spent 8 months attempting to remove Ms. Mack from the premises. In the attached Exhibit A, Ms. Mack acknowledges that she has no legal grounds for occupying the property as she was never added to a lease (nor was she eligible to be added to the lease). The Housing Authority never requested that Ms. Mack make rental payments as this was only ordered by the Magistrate during a bond hearing. Mack initiated a Notice of Civil Appeal on March 23, 2022, on behalf of the Estate of Rosa Gee. See attached Exhibit B. On March 24, 2022, the Magistrate Judge issued a Summons to the Estate of Rosa Gee regarding a bond hearing held on April 11, 2022. See attached Exhibit C. On April 13, 2022, the Magistrate Judge issued a

Mark W. Buyck, Jr.
Hugh L. Willcox, Jr.
Wm. Reynolds Williams♦
Mark W. Buyck, III
E. Lloyd Willcox, II
Tracy L. Wright
J. Scott Kozacki
Walker H. Willcox
Paula A. Sartor
Katherine M. Ryan † AL

LAW OFFICES
WILLCOX, BUYCK, & WILLIAMS
PROFESSIONAL ASSOCIATION
WWW.WILLCOXLAW.COM
248 WEST EVANS STREET (29501)
POST OFFICE BOX 1909
FLORENCE, SOUTH CAROLINA 29503-1909

2050 Corporate Centre Dr.
Suite 230
Myrtle Beach, SC 29577
Telephone (843) 650-6777
Fax (843) 650-6767

† Additionally Licensed
♦ Certified Mediator

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Reply To: Florence

Telephone (843) 662-3258
Fax (843) 662-1342

October 20, 2022

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Jenny Abbott Kitchings
Clerk of Court
P.O. Box 11629
Columbia, SC 29211

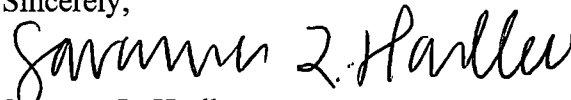
Re: **Respondent's Motion to Dismiss in the Court of Appeals**
Case No.: 2022-CP-21-00593
Magistrate Case No.: 2022-CV-21-10100759
Appellate No.: 2022-001296
The Estate of Rosa Gee v. Pelican House Apartments
Our File 10703.16956

Dear Ms. Kitchings:

Enclosed please find the **Respondent's Motion to Dismiss in the Court of Appeals** in connection with the above referenced appeal. We e-filed this document on October 19, 2022, via electronic transmission of ctappfilings@sccourts.org. Along with this Motion, kindly find enclosed check #104198 in the amount of \$50.00 for the filing fee. By copy of this letter we are serving The Estate of Rosa Gee and Ms. Ariel Mack a copy of same.

Should you have any questions or concerns, please contact Mark W. Buyck, III., at (843) 662-3258.

Sincerely,



Savanna L. Harllee
Legal Assistant for Mark W. Buyck, III
Email: sharllee@willcoxlaw.com

Slh
Enclosure
Cc: Ariel Mack



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