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Nov 14 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
The Honorable Deadra L. Jefferson, Circuit Court Judge
Case No.: 2018-CP-10-0872

Appellate Case No. 2019-002002

Estate of Patricia B. Holliday.....Appellant,

v.

Ross S. Holliday.....Respondent.

APPELLANT’S RULE 212 MOTION TO
SUPPLEMENT RECORD WITH ORIGINAL DOCUMENT

Pursuant to Rules 212(b), SCACR, Appellant hereby moves to supplement the record by submitting the *original* copy of the June 18, 2004 Promissory Note to the Court for its review at the November 15, 2022 oral argument in this appeal.

The grounds for this Motion are as follows: 1) A copy of the note is already part of the uncontested record, located at page 125 of the Record on Appeal (attached as Exhibit A); 2) The discovery of the original note served as the basis for Appellant’s Rule 60 Motion to Alter or Amend Judgment, filed on October 9, 2020 (R. p. 278); 3) the circuit court’s Order Denying Appellant’s Motion for Relief from Judgment is one of the orders on appeal (R. p. 14); 4) Appellant’s Initial and Final Briefs in this appeal specifically state, “This document is in possession of the Plaintiff’s counsel and will be provided for inspection by the parties and the

Court at or before the hearing,” (Final Brief, filed Feb. 22, 2022, at p. 7, n. 1); 5) Opposing counsel was given the opportunity to review and inspect the original note by Appellant’s trial counsel (Email, attached as Exhibit B); 6) Respondent’s Brief does not contest the authenticity of the original note; 7) Even if Respondent were to now contest the authenticity of the note, its existence is relevant to this Court’s analysis as it raises a material question of fact as to who had possession of the *original* document; and 8) Pursuant to Rule 212(b), “a party may supplement the Record on Appeal at any time before argument commences.”

Pursuant to Rule 212(b), Appellant’s counsel has consulted with Respondent’s counsel to obtain her consent to submit the *original* document to the Court for its review and consideration, to which she has objected. For those reasons stated hereinabove, including the fact that a copy of the original document is already part of the record, Appellant respectfully requests that this Court grant his Motion to Supplement the Record so that it can review the original note at oral argument.

Respectfully submitted,

THE LAW OFFICE OF JESSE SANCHEZ, LLC

s/Jesse Sanchez

Jesse Sanchez, SC Bar No. 101906

98 ½ Broad Street

Charleston, SC 29401

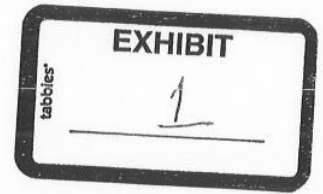
Telephone (843) 814-8181

Facsimile (843) 284-3953

Attorney for the Appellant

Charleston, South Carolina
November 14, 2022

EXHIBIT A



PROMISSORY NOTE

June 18, 2004

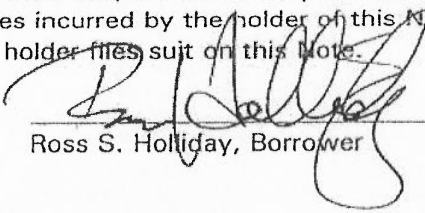
\$2,000,000

FOR VALUE RECEIVED, Ross S. Holliday, the undersigned borrower, promises to pay to Warren P. Holliday and Patricia B. Holliday, as joint tenants or the survivor of them, or order, the sum of Two Million Dollars (\$2,000,000) together with interest on the unpaid balance at the rate equal to the prime rate of National Bank of South Carolina plus one-half percent (1/2%), payable upon demand. Provided, however, in the event demand is made for payment of this Promissory Note ("Note"), then borrower shall have six (6) months following the date of such demand to complete repayment of this Note. The borrower will make all payments at such place as the holder designates in writing.

At the option of the holder of this Note until payment in full or maturity, upon default, all monies payable under this Note are due and immediately payable. The Note is in default if any payment remains unpaid beyond the date six (6) months following the date of demand for payment.

The borrower may prepay all or part of the loan without penalty. Each payment first applies to the payment of accrued interest and the balance of each payment applies to the payment of principal.


If the borrower does not pay this Note when due, the borrower promises to pay all costs of collection and reasonable attorneys fees incurred by the holder of this Note on account of such collection, whether or not the holder files suit on this Note.



Ross S. Holliday, Borrower

773348

EXHIBIT B

From: Mark Holliday mbenholliday@outlook.com 
Subject: Fwd: Holliday v. Holliday: original note discovered
Date: November 14, 2022 at 10:46 AM
To: Jesse Sanchez jesse@jessesanchezlaw.com



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From: Tillman, Matthew <Matthew.Tillman@wbd-us.com>
Sent: Wednesday, May 13, 2020 9:49 AM
To: Alice Paylor <apaylor@rosenhagood.com>; Bijan Ghom <bghom@rosenhagood.com>; tnettles@finkellaw.com <tnettles@finkellaw.com>
Subject: RE: Holliday v. Holliday: original note discovered

All,

While working through Patricia Holliday's files and possessions, her children Ben and Pamela found the original promissory note, a copy of which is attached. I have the original in my possession, and if you want to review it, please let me know.

This is probably not an issue until after the appeal is concluded, but I suspect you will want to conduct some discovery regarding the location of the note if the order granting summary judgment is reversed. We will make Ben and Pamela available as needed when/if that happens.

Thank you.

Matthew Tillman
Partner
Womble Bond Dickinson (US) LLP

d: 843-720-4629
m: 843-324-0966
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PROMISSORY NOTE

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Estate of Patricia B. Holliday.....Plaintiff,

v.

Ross S. Holliday.....Respondent.

PROOF OF SERVICE

I do hereby certify that on the 14th day of November 2022, I served a copy of *Appellant's Rule 212 Motion to Supplement Record with Original Document* on all counsel of record via their AIS-designated email at the below email addresses. Pursuant to Rule 262(C)(3), SCACR, and the Order of The Supreme Court of South Carolina, RE: Methods of Electronic Filing Under Rule 262 of the South Carolina Appellate Court Rules (As Amended May 6, 2022), a copy of said email to counsel is attached.

Alice F. Paylor, Esq.
Bijan Ghom, Esq.
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Charleston, SC 29401
afp@saxtonstump.com
bkg@saxtonstump.com

F. Truett Nettles, II, Esq.
Rosen Hagood, LLC
151 Meeting Street, Suite 400
Charleston, SC 29401
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Attorneys for Respondent

THE LAW OFFICE OF JESSE SANCHEZ, LLC

s/Jesse Sanchez

Jesse Sanchez, SC Bar No. 101906

98 ½ Broad Street, Suite B

Charleston, SC 29401


Telephone (843) 814-8181

Facsimile (843) 284-3953

jesse@jessesanchezlaw.com

Attorney for the Appellant

Charleston, South Carolina
November 14, 2022

From: Jesse Sanchez jesse@jessesanchezlaw.com 

Subject: 2019-002002 Estate of Holliday v. Holliday

Date: November 14, 2022 at 11:49 AM

To: Alice F. Paylor afp@saxtonstump.com, Bijan K. Ghom bkg@saxtonstump.com, tnettles@rosenhagood.com



Counsel,

Attached for service, please find *Appellant's Rule 212 Motion to Supplement the Record with Original Document* and corresponding Cover Letter, which are being filed momentarily with the South Carolina Court of Appeals via OneDrive Electronic Submission.

Best Regards,

Jesse

--

Jesse Sanchez

The Law Office of Jesse Sanchez, LLC

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2019-002002_
Hollida...22.pdf





November 14, 2022

VIA ONEDRIVE ELECTRONIC SUBMISSION AND
HAND DELIVERY

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED

Nov 14 2022

SC Court of Appeals

Re: The Estate of Patricia B. Holliday v. Ross S. Holliday
Appellate Case No. 2019-002002

Dear Ms. Kitchings,

Enclosed herewith, please find the following for filing with the Court:

1. Appellant's Rule 212 Motion to Supplement the Record with Original Document.
2. Proof of Service.

A check for the fifty dollar (\$50.00) filing fee has been issued and will be hand-delivered to the Court prior to oral argument.

Thank you for your attention to this matter. Should you have any questions regarding this submission, please do not hesitate to contact me directly at (843) 814-8181.

Sincerely,

s/Jesse Sanchez

Jesse Sanchez, SC Bar No. 101906

Attorney for Appellant

Cc: F. Truett Nettles, II, Esq. (via email only)
Alice F. Paylor, Esq. (via email only)
Bijan Ghom, Esq. (via email only)

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