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Nov 14 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
The Honorable Deadra L. Jefferson, Circuit Court Judge  
Trial Court Case No. 2018-CP-10-00872

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Appellate Case No.: 2019-002002

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

vs.

Ross S. Holliday.....Respondent.

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**RESPONDENT’S RETURN TO APPELLANT’S RULE 212  
MOTION TO SUPPLEMENT RECORD**

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Pursuant to Rule 240(e), Respondent files this Return to Appellant’s Rule 212 Motion to Supplement Record with the “original copy” of the June 18, 2004 Promissory Note and further objects to Appellant’s request to provide the document to this Court for its review at the November 15, 2022 oral argument in this appeal.

Respondent objects on several grounds. Appellant’s Motion erroneously states that “Respondent’s Brief does not contest the authenticity of the original note.” Respondent has contested the authenticity of the document at both the trial and appellate level. In fact, Respondent’s Brief refers to this document as “the alleged original note” and puts the word “original” in quotations to express concern regarding its authenticity. The issue of authenticity of the document is irrelevant to whether Appellant released her claim to the Note, as the trial court ruled, or whether she is barred by the applicable statute of limitations (S.C. Code § 36-3-118), as

Respondent asserts as an additional sustaining ground. (“Specifically, the determinative factor in the Court’s October 11, 2019 Order was that, pursuant to the terms of the Marital Settlement Agreement, Warren was to receive *all* assets and *all* liabilities, business, personal, or otherwise, and in exchange, Patricia would receive tax-free monthly payments of \$16,000.00 for her life, ownership of the family home, and a life insurance policy on Warren’s life in the amount of \$645,000.” R. p. 23).

The same is true for Appellant’s argument that who had possession of the Note is a material fact. Appellant has made this argument at every turn, including in her Motion to Alter/Amend Judgment based on this alleged new discovery of the alleged original Note. (R. p. 471). As the trial court has ruled, whether Appellant had possession of the Note is not a material fact warranting consideration. (“[T]he original Promissory Note, the location of the original Promissory Note, or which party had possession of the original Promissory Note, was not dispositive to the Court’s ruling on Defendant’s Motion for Summary Judgment.,” R. p. 21).

Because Respondent contests the authenticity of the Note and the location of the Note in March of 2020 is irrelevant to the lower court’s grant of summary judgment and similarly irrelevant to whether the Note is “newly discovered evidence” under Rule 60, Respondent respectfully requests that this Court deny Appellant’s Motion to Supplement the Record.

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Charleston, South Carolina  
November 14, 2022

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v.

Ross S. Holliday.....Respondent.

**PROOF OF SERVICE**

I do hereby certify that on November 14, 2022, I have served all counsel in this action with a copy of the *Respondent's Return to Appellant's Rule 212 Motion to Supplement Record* via emailing copy of the following email address:

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