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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 REPLY TO
RESPONDENT’S RETURN TO THE
RULE 212 MOTION TO SUPPLEMENT RECORD
WITH ORIGINAL DOCUMENT

Pursuant to Rule 240(f), SCACR, Appellant, through his undersigned counsel, hereby respectfully submits this brief Reply to Respondent’s Return to the Rule 212 Motion to Supplement Record with Original Document.

As a preliminary matter, Respondent’s return fails to demonstrate (or even argue) that Respondent would be prejudiced by this Court’s review of the original document. A copy of the original document is already in the uncontested Record on Appeal (R. p. 125). Respondent has also known for well over a year that Appellant would produce the original wet signature document for this Court’s review at oral argument as it was clearly set forth in both Appellant’s Initial Brief and Final Brief. See Appellant’s Initial Brief, filed October 29, 2021, p. 7, n. 1; and

Appellant’s Final Brief, filed February 22, 2022, p. 7, n.1, stating, “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.” Respondent’s Return Brief notably failed to contest the authenticity of the note nor does it challenge Appellant’s ability to present the original document to the court. Respondent’s argument that his use of quotation marks around the word “original” somehow amounts to a proper objection to the document’s authenticity is specious at best, particularly when he and his counsel failed to avail themselves of the opportunity to review the document in the first place.

Further, the Circuit Court held that the Original Note was discovered after the summary judgment hearing, and that Appellant had proven this required element. (Rule 60 Order, R. at p. 21). That conclusion is incontrovertible and correct. (See Appellant’s Final Brief, at p. 21, stating the same). The existence of the original note is absolutely relevant to this appeal as it demonstrates that Patricia Holliday was a holder of the note in due course.

For the foregoing reasons as well as those set forth in Appellant’s Motion, Appellant respectfully requests that this Honorable Court grant his Motion to Supplement the Record so that it can review the original document at oral argument.

[Signature on following page]

Respectfully submitted,

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PROOF OF SERVICE

I do hereby certify that on the 14th day of November 2022, I served a copy of *Appellant's Reply to Respondent's Return to the 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.

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