

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
Case No. 2013-000327

APPEAL FROM YORK COUNTY
Court of Common Pleas

Hon. John C. Hayes, III
Presiding Circuit Court Judge

Consolidated case no. 2010-CP-46-2326

Juontonio Pinckney, et al..... Appellants,

v.

Epcon Communities, Inc.,
Epcon Communities Franchising, Inc.,
Brock L. Fankhauser, Fankhauser Property Group, Inc.,
Stonecrest Villas of Tega Cay, LLC,
And Stonecrest Villas of Tega Cay Owners'
Association, Inc. Respondents

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SC Court of Appeals

**RESPONDENT/CROSS-APPELLANT'S RETURN TO APPELLANTS' MOTION
FOR THE COURT TO ESTABLISH BRIEFING DEADLINES**

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Respondent/Cross-Appellant, Stonecrest Villas of Tega Cay Owners' Association, Inc., pursuant to Rule 240(f) of the South Carolina Appellate Court Rules, hereby files this Return to Appellants' Motion for the Court to Establish Briefing Deadlines". Respondent/Cross Appellant's Motion states facts that are misleading and irrelevant to the pending Motions to Dismiss, and therefore, should not be considered.

A. Procedural History

On October 12, 2012, the Respondent/Cross-Appellant filed a Motion for Summary Judgment asking the Lower Court to dismiss all parties' claims for damages to the common-elements due to the settlement. (See Exhibit E to Respondent Cross-Appellant's Motion to Dismiss, 00044-00049). Oral argument on Respondent/Cross-Appellant's Motion for Summary Judgment was held on December 19, 2013. (See Appellants' Return to Motion to Dismiss at pp. 2-3). On January 23, 2013, the Lower Court granted the motion and dismissed all parties' claims for the cost to repair the construction defects within the common-elements, including the identical claims of the plaintiff Appellants. (See Exhibit F to Respondent Cross-Appellant's Motion to Dismiss, 00050-00062). Appellant's sought reconsideration of the January 23, 2013 Order by filing a motion to alter or amend. (See Exhibit G to Respondent Cross-Appellant's Motion to Dismiss, 00063-00075). Appellant's motion was denied on February 27, 2013. (See Exhibit H to Respondent Cross-Appellant's Motion to Dismiss, 00076-00078).

On March 25, 2013, Appellants filed a Notice of Appeal of the January 23 and February 27 orders. On March 29, 2013, Respondent Cross-Appellant filed a Cross-

Notice of Appeal. At that point, there were two orders on appeal to this Court relating to this specific appeal, i.e., Case No. Case No. 2013-000327.

In response to the Cross-Notice of Appeal, Appellants filed a Motion to Dismiss the Cross- Appeal on April 4, 2013. When Appellants failed to perfect their appeal by filing their opening brief, which was due April 24, 2015, Respondent/Cross-Appellant filed a Motion to Dismiss on the basis of the Appellants' failure to meet the briefing deadlines.

B. Issues Before this Court

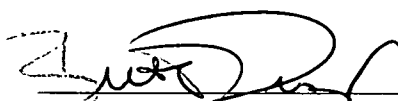
At this point, there are two issues before the Court. The first issue is whether the Cross-Notice of Appeal was proper. The second issue is whether the Appellant's appeal should be dismissed for failure to comply with the SCACR. These issues are irrelevant to other orders or appeals that may be pending before the Court. Further, neither issue on the respective Motions to Dismiss in this appeal (Case No. Case No. 2013-000327) is complex or novel. The only question is whether each of them is properly before the Court at this time.

The other appeal filed in 2012 and styled Juontonio Pinckney, et al. v. Epcon Communities, CA No. 2012-213730 is completely unrelated to the issues before the Court in this appeal. The third appeal (previously reference in other pleadings) was withdrawn by the Appellant by the filing of the May 24, 2013 "Appellants' Notice of Motion and Motion to Withdraw Two (2) of the April 20, 2013 Trial Court Orders Noticed for Appeal on May 22, 2013".

CONCLUSION

Appellant's Motion for the Court to Establish Briefing Deadlines makes improper reference to other orders and that are irrelevant to the pending motions and that a briefing schedule is not necessary for the reasons and basis given in the Appellant's Motion.

Respectfully submitted,



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June 3, 2013

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
Case No. 2013-000327

APPEAL FROM YORK COUNTY
Court of Common Pleas

Hon. John C. Hayes, III
Presiding Circuit Court Judge

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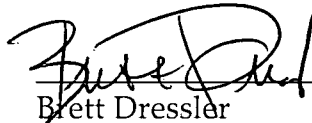
Juontonio Pinckney, et al.Appellants,

v.

Epcon Communities, Inc., Epcon Communities Franchising, Inc.,
Brock L. Fankhauser, Fankhauser Property Group, Inc.,
Stonecrest Villas of Tega Cay, LLC, and
Stonecrest Villas of Tega Cay Owners' Association, Inc.Respondent

PROOF OF SERVICE

I certify that I have served the foregoing RESPONDENT/CROSS-APPELLANTS' RETURN TO APPELLANT'S MOTION FOR THE COURT TO ESTABLISH BRIEFING DEADLINES on counsel for Appellants Juontonio Pinckney, et al, J. Cameron Halford, Halford Niemiec & Freeman, L.L.P., 238 Rockmont Drive, Fort Mill, South Carolina 29708, by depositing a copy in the U.S. Mail, postage prepaid, on May 22, 2013 with all other parties served by U.S. Mail.



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