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January 20, 2023

Via Hand-Delivery and Email (ctappfilings@sccourts.org)
Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED
Jan 20 2023
SC Court of Appeals

Re: *Hampton Barrington Luzak v. Merrill U. Barringer*
Appellate Case No.: 2021-001337

Dear Ms. Kitchings:

My co-counsel and I (who represent Ms. Luzak) are in receipt of your letter dated January 10, 2023, requesting additional copies of the Record on Appeal and Final Briefs. The additional copies are provided with this letter. However, we also wanted to provide you with developments that are relevant to the status of this appeal.

After the Court of Appeals dismissed Ms. Luzak's supplemental notice of appeal in Appellate Case No. 2021-001337, we filed a Petition for Writ of Certiorari with the Supreme Court (copy attached). This likely did not get docketed in 2021-001337, because, even though our Supplemental Notice of Appeal identified the appeal as being a part of Appellate Case No. 2021-001337, the Court of Appeals assigned the appeal a new number, 2022-000784. Our Petition for Writ of Certiorari to the Supreme Court to review the Court of Appeals' dismissal of the supplemental notice of appeal in 2021-001337 is still pending. I checked C-track after receipt of your letter, and our Petition for Certiorari is docketed on that appeal (Appellate Case No. 2022-000784), rather than Appellate Case No. 2021-001337, where we think it should be.

The Supreme Court issued an order on April 29, 2022 in a related case in Appellate Case No. 2021-000837.¹ That order certified Appellate Case No. 2021-000837 and vacated a judgment that was a portion of that appeal. However, that Supreme Court order also appeared to vacate the order that was pending in Appellate Case No. 2021-001337, even though the Supreme Court did not certify that appeal. Questions were created by that Supreme Court order, with the certification of only Appellate Case No. 2021-000837, and all parties sought additional relief after the April 29, 2022

¹ See Ex. C to the attached Pet. for Writ of Cert. The Supreme Court also issued an order on April 29, 2022 in Appellate Case No. 2021-001022 (See *Id.* at Ex. A). The orders were not served at the same time, further adding to the complexity.

order. The Supreme Court issued a clarifying order on September 14, 2022. (See attached order). Unfortunately, the September 14, 2022 clarifying order still did not certify Appellate Case No. 2021-001337 so Ms. Luzak's Petition for Cert to the Supreme Court for Appellate Case No. 2021-001337 included the option of certifying Appellate Case No. 2021-001337 to the Supreme Court because that Court attempted to vacate the lower court order that is on appeal in that case. In Response to the September 14, 2022 order, Respondents filed a Petition for Rehearing in Appellate Case No. 2021-000837.

After the Supreme Court issued its orders in Appellate Case No. 2021-000837, the parties filed the Record on Appeal and final briefs² with the Supreme Court. Despite the Supreme Court's orders of April 29, 2022 and September 14, 2022, additional issues remain pending in Appellate Case No. 2021-000837 which is still pending at the Supreme Court. As noted, one of the matters before the Supreme Court is the lower court order at issue in Appellate Case No. 2021-001337 which was vacated by the Supreme Court in its order of September 14, 2022 in Appellate Case No. 2021-000837, though the Supreme Court did not certify Appellate Case No. 2021-001337.

I have no doubt that this is confusing. Perhaps a telephone call with me and a lawyer for each of other parties to these appeals would be helpful. However, the primary point I wanted to bring to your attention was that the Supreme Court has been asked to consider certifying Appellate Case No. 2021-001337, since it has already vacated the order that is the subject of that appeal. Perhaps proceedings at the Court of Appeals with respect to Appellate Case No. 2021-001337 should be put on hold while we all await clarification from the Supreme Court as to whether it intended to certify both Appellate Case No. 2021-000837 and Appellate Case No. 2021-001337 when it issued its orders of April 29, 2022 and September 14, 2022.

I hope this is helpful. With warm personal regards, I am,

Sincerely yours,

Desa Ballard
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cc: Via Email
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Bijan Ghom, Esquire
Charles Molster, Esquire
J. Ashley Twombly, Esquire
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² These filings were accepted and docketed, as reflected on C-track, in Appellate Case No. 2021-000837 pending at the Supreme Court.

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January 20, 2023

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