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Jun 12 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
The Honorable Donald B. Hocker, Circuit Court Judge
Beaufort County
Trial Court Case No. 2020-CP-07-1064

APPELLATE CASE NO. 2022-001547

Turner's Marina, LLC,

Respondent-Appellant,

vs.

Paige Lorberbaum, Jeffrey Klapper, and Diane L. Klapper,

Defendants,

Of whom Paige Lorberbaum is the Appellant-Respondent and Jeffrey A. Klapper and Diane L. Klapper are Respondents.

RESPONDENT-APPELLANT TURNER'S MARINA, LLC'S RETURN TO
APPELLANT-RESPONDENT PAIGE LORBERBAUM'S MOTION TO FILE
AMENDED RECORD ON APPEAL, EXTEND TIME TO FILE FINAL BRIEFS

The Respondent-Appellant Turner's Marina, LLC urges this Court to deny the Appellant-Respondent Paige Lorberbaum's Motion To File Amended Record on Appeal.

Rule 210 SCACR provides that the Record on Appeal shall include all matter designated to be included by any party under Rule 209. The Appellant-Respondent failed to include the Motion to Dismiss filed by the Respondent-Appellant Turner's Marina, LLC on January 23, 2023, in its Supplemental Designation of Matter filed April 24, 2023, then failed to include it in the Record on Appeal submitted on May 23, 2023. Ms. Lorberbaum now seeks this Court's permission to supplement the previously filed Record on Appeal by adding copies of the Motion To Dismiss and presumably the Memo In Support. However, that is neither necessary nor appropriate because, as Rule 210 further states, "The Record [On

Appeal] shall not, however, include matter which was not presented to the lower court or tribunal.”

The Respondent-Appellant’s previously filed Motion To Dismiss was not presented to the lower court or tribunal, and thus would not have been appropriately included in the Record On Appeal even if it had been designated in Ms. Lorberbaum’s Supplementary Designation of Matter filed April 24, 2023 or even if it had been included in the May 23, 2023 filed Record On Appeal. The Motion to Dismiss and supporting memo are readily available to the Court as documents filed with the Clerk of the Court of Appeals, and thus the Motion To File Amended Record On Appeal should be denied.

Respondent-Appellant Turner’s Marina, LLC does not object to that portion of the Motion requesting additional time for Ms. Lorberbaum and the Klappers to file their final briefs, given the motion under consideration.

s/Thomas C. Taylor
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ATTORNEY FOR RESPONDENT-APPELLANT
TURNER’S MARINA LLC

June 12, 2023
Bluffton, South Carolina

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Of whom Paige Lorberbaum is the Appellant-Respondent and Jeffrey A. Klapper and Diane L. Klapper are Respondents.

PROOF OF SERVICE

I hereby certify that this law firm represents the Respondent-Appellant Turner's Marina, LLC in the above-captioned matter and that on the date below, in Bluffton, South Carolina, a copy of the foregoing was served on the following persons via electronic mail to their AIS E-mail address:

**Documents Served: RESPONDENT-APPELLANT TURNER'S MARINA, LLC'S
RETURN TO APPELLANT-RESPONDENT PAIGE
LORBERBAUM'S MOTION TO FILE AMENDED RECORD
ON APPEAL, EXTEND TIME TO FILE FINAL BRIEFS**

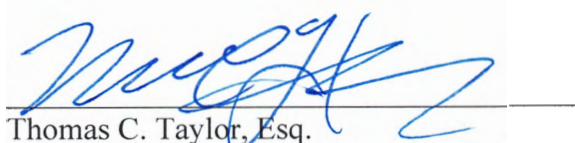
Parties Served:

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Bluffton, South Carolina
June 12, 2023

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ADMITTED TO THE UNITED STATES
SUPREME COURT BAR

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SC Court of Appeals

June 12, 2023

Via US Mail and E-Mail Attachment: ctappfilings@sccourts.org

Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Turner's Marina LLC, Respondent-Appellant vs. Paige Lorberbaum, Jeffrey Klapper, and Diane L. Klapper, Defendants, Of whom Paige Lorberbaum is the Appellant-Respondent and Jeffrey A. Klapper and Diane L. Klapper are Respondents; Case No. 2022-001547

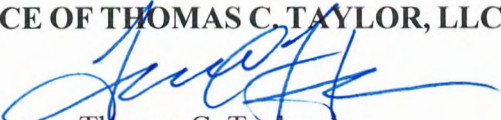
Dear Clerk Kitchings:

I represent the Respondent-Appellant Turner's Marina LLC in this matter. I am attaching hereto electronic copies, and depositing hard copies in the US Mail this morning to you, the following:

- a. Respondent-Appellant Turner's Marina, LLC's Return To Appellant-Respondent Paige Lorberbaum's Motion to File Amended Record On Appeal; Extend Time To File Final Briefs; and,
- b. Proof of Service thereof this date by email to opposing counsels' AIS email addresses.

Please let me know if you have any questions. As always, I thank you and your staff for your assistance and professionalism in handling these matters.

Yours very truly,
LAW OFFICE OF THOMAS C. TAYLOR, LLC



Thomas C. Taylor

TCT/dpt

Attachments and enclosures

cc: Russell P. Patterson, Esq., and James S. Murray, Esq., via email transmittal
Neil Turner, via e-mail transmittal