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Aug 11 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

The Honorable R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2023-000133

Donald Eaton, Kristy Drees, and Logan Drees.....Plaintiffs,

v.

DBC Anderson Cove LP.....Respondent,

Of Whom Donald Eaton is the Appellant.

RESPONDENT’S MOTION TO SUPPLEMENT THE RECORD ON APPEAL

Pursuant to Rule 212(b), SCACR, Respondent respectfully moves the Court for leave to supplement the Record on Appeal in order to include additional documents from the lower court proceedings that were omitted from the Record on Appeal that was filed by the *pro se* Appellant.

The documents at issue include copies of the parties’ dispositive motions, Respondent’s affidavit in support of their motion for summary judgment, and a copy of the Respondent’s 30-day eviction notice. These documents were included in a 90-page PDF (labeled “Return”) that was filed on December 7, 2022 in the circuit court action that led to this appeal (2022-CP-04-02285). The Record on Appeal that was filed by Appellant omitted about 40 pages of the “Return” PDF.¹

¹ Pages 14–15, 39–60, and 73–90 of the “Return” PDF appear to have been omitted.

Respondent’s Designation of Matter to be Included in the Record on Appeal specifically identified the 90-page PDF: “3. Magistrate’s Return, filed December 7, 2022[.]” Respondent’s brief contains several citations to the omitted portions of the “Magistrate’s Return” document (e.g. the dispositive motions, the eviction notice, and an affidavit in support of summary judgment).²

The documents that Respondent seeks to include in the Record on Appeal are attached to this motion as the “Appendix to the Record on Appeal.” These documents were considered in the lower court proceedings that led to this appeal, these documents were identified in the Respondent’s “Designation of Matter” that was filed on June 16, 2023, and these documents include evidence and legal arguments that are pertinent to this appeal. As such, these documents should be considered by the Court of Appeals pursuant to Rule 210(h) and Rule 212, SCACR.

There is no duty to confer with the Appellant prior to submitting this motion because the Appellant is a *pro se* litigant. Rule 11(a), SCRCP.

For the reasons discussed above, Respondent respectfully moves the Court to:

1. For leave to file the “Appendix to the Record on Appeal” attached to this motion;
2. For the Court to consider such documents with respect to this appeal; and
3. For such other and further relief as this Court deems appropriate.

/s/ John H. Scully
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Attorney for Respondent

August 11, 2023

² The missing documents are cited in the Respondent’s Final Brief as “Suppl. R. p. __.”

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Of Whom Donald Eaton is the Appellant.

PROOF OF SERVICE

I certify that I have served the Respondent’s Motion to Supplement the Record on Appeal to Appellant by causing a copy of the same to be mailed to the Appellant’s address of record (below) via U.S. Mail on August 11, 2023.

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