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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

The Honorable Jocelyn Newman, Circuit Court Judge

Appellate Case No.: 2021-000658

R-Anell Housing Group, LLC, …….. Respondent,
v.
Homemax, LLC, ……. Appellant.

PETITION FOR REHEARING

Appellant herein petitions this honorable Court for rehearing pursuant to Rule 221, SCACR. On August 9, 2023, this Court issued Opinion No. 2023-UP-289 which, *inter alia,* determined (1) the trial court properly awarded pre-judgment interest, despite not being plead; (2) changed the law regarding the residential home exception to the economic loss rule, despite this being an unpublished opinion, and despite this being inconsistent with prior decisions of the South Carolina Supreme Court; and (3) affirmed the trial court's exclusion of certain email evidence as irrelevant.

REINTRODUCTION AND SUMMARY OF FACTS

R-Anell ("Respondent") is a manufacturer of modular homes, and Homemax ("Appellant") is a retailer. This dispute concerns two homes manufactured by Respondent—the "Christofoli House" and the "Brown House." Respondent sued Appellant for breach of contract, alleging non-payment of the Brown House. Appellant answered and counterclaimed for negligence and breach

of contract related to the Christofoli House which was damaged by water intrusion. After the trial court granted directed verdict on Appellant's negligence claim, the case went to the jury on the competing claims for breach of contract, and the jury returned a verdict for Respondent. This appeal concerns three alleged errors: (I) the trial court erred in awarding statutory prejudgment interest under S.C. Code Ann. § 34-31-20(A); (II) the trial court erred in granting directed verdict on Appellant's claim for negligence based on the economic loss rule; and (III) the trial court erred by excluding email evidence as irrelevant. On August 9, 2023, this Court affirmed. This Petition for Rehearing timely follows.

ARGUMENT

I. This Court Should Grant Rehearing on the Issue of Pre-Judgment Interest

Appellant argued the trial court's award of prejudgment interest from March 24, 2018, was error because statutory prejudgment interest was not plead for in the complaint, and because the amount at issue was neither a sum certain nor was it demandable on March 24, 2018. This Court affirmed, finding that the failure to plead statutory prejudgment interest (although indisputable) was not preserved. This Court also made the summary conclusion that the amount sought was a sum-certain and was also demandable on March 24, 2018. This Court misapprehended or overlooked that its conclusions are supported by neither law nor evidence.

A. This Court should grant rehearing because it misapplied or misapprehended the rules of issue preservation in finding Respondent's failure to plead statutory prejudgment interest was not preserved.

Section 34-31-20(A) establishes the statutory prejudgment interest rate at 8.75%. It is well-settled that statutory prejudgment interest must be plead to be awarded. *See Dixie Bell, Inc. v. Redd*, 376 S.C. 361, 367, 656 S.E.2d 765, 768 (Ct. App. 2007) (holding "our Supreme Court held pre-judgment interest should not be included in the judgment [when] it was not pled in the

complaint or prayer") (*citing Town of Bennettsville v. Bledsoe,* 226 S.C. 214, 219, 84 S.E.2d 554, 556 (1954)). It cannot be disputed that Respondent did not seek statutory prejudgment interest in its complaint. Instead, it sought contractual interest at the rate of 7%. *See* (R. p. 13).

During the trial—at the close of Respondent's case—Appellant moved for directed verdict on Respondent's claim of interest. At which point Respondent first acknowledged that statutory interest must be plead, and then conceded the 7% interest set out in the complaint was: "actually, **that is not the statutory prejudgment interest**." (R. p. 151, lines 24-25) (emphasis added). Appellant likewise pointed out there was neither evidence of a right for interest nor "a claim for a right to interest against [Appellant]." (R. p. 151, lines 11-12). Therefore, when the topic of interest arose again after the verdict was rendered, there was no need for Respondent's counsel to raise the issue again. The trial court was already aware of the fact that the claimed 7% was not statutory interest. Thus, Appellant simply renewed his "object[ion] to the application of any interest"—either statutory or contractual. (R. p. 311) ("There was no agreement in contract or in writing for the recovery of interest. I don't think that there is any statute within the UCC that expressly allows for the recovery of interest in this situation.")

Respondent's acknowledgment that the 7% interest it sought was not statutory interest, is tantamount to a waiver of such relief. *See Dixie Bell, Inc. v. Redd*, 376 S.C. 361, 367, 656 S.E.2d 765, 768 (Ct. App. 2007) (discussing the error of granting prejudgment what it is not plead because the party "waived any claim to receive prejudgment interest by not pleading it") (*citing Goodson v. Carolina Container Corp., Inc.,* 283 S.C. 575, 324 S.E.2d 67 (1984)). In the face of Respondent's concession, the trial court was aware that Respondent did not claim statutory prejudgment interest but was clearly resolved to award it regardless. Thus, at the close of all evidence, Appellant's renewed "object[ion] to the application of any interest" was sufficient under

the rules of issue preservation which neither require magic language nor charge a litigant with pestering the trial court. *See Herron v. Century BMW*, 395 S.C. 461, 466, 719 S.E.2d 640, 642 (2011) ("[A] party is not required to use the exact name of a legal doctrine in order to preserve the issue."); *see also Evans v. Wabash Life Ins. Co.*, 247 S.C. 464, 466, 148 S.E.2d 153, 153 (1966) (the renewal of a motion for directed verdict at the close of all evidence is sufficient to preserve the issues); *accord Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 734 (1998) (a general objection is sufficient to preserve an issue where the context demonstrates the trial court had sufficient information to understand the issue and rule on it.).

To require a litigant to restate a point already admitted by the opposing party—like here—is an overly technical misapplication of the rules of issue preservation. *See generally, Long v. Norris & Assocs. Ltd.*, 342 S.C. 561, 578, 538 S.E.2d 5, 14 (Ct. App. 2000) ("So long as the judge had an opportunity to rule on an issue, and did so, it was not incumbent upon counsel to harass the judge by parading the issue before him again.").

B. This Court should grant rehearing because the evidence does not demonstrate that the amount at issue was a sum-certain, and this Court's assumption that the amount is a sum-certain because it was set out in an invoice is unsupported by the law.

This Court's reasoning is flawed because it draws a false equivalency between the existence of an invoice and a claim on an account stated or "sum-certain." In other words, simply because a plaintiff has transcribed the amount claimed into an invoice does not mean the claim is for a sum-certain. Otherwise, a litigant could make every case one for a sum-certain simply by transcribing the claimed amount into an invoice.

Rather, the question of whether a claim is for a sum-certain turns on the particulars of what the parties agreed to ***before*** the amount was claimed due. To be a sum-certain, the law demands the amount was "capable of being reduced to certainty based on a mathematical calculation

previously agreed to by the parties." *Dixie Bell,* 376 S.C. at 370, 656 S.E.2d at 769 (*citing Butler Contracting, Inc. v. Court Street, LLC*, 369 S.C. 121, 133, 631 S.E.2d 252, 258-59 (2006)) (all emphasis added). "[W]here the sum cannot be determined by a fixed formula" agreed to by the parties ***before*** the invoice is submitted, then it cannot be a sum certain. *Id.* (*citing Lewis v. Congress of Racial Equality*, 275 S.C. 556, 274 S.E.2d 287 (1981)) (emphasis added).

Here, there was an initial quote/offer proposed by Respondent on September 1, 2017, in the amount of $142,660.80. (R. pp. 313-16). Subsequently, on March 24, 2018, Respondent issued an invoice for a different amount—*i.e.*, $142,292.80—this being the amount it now claims to be the "sum-certain." (R. p. 317). However, for this invoice amount to be considered a sum-certain, the law requires there to be a "fixed formula" that was agreed to by the parties ***before*** March 24, 2018. *See supra.* This Court has misapprehended or overlooked that there is no evidence of any agreed upon formula for calculating the invoice amount.[1]

Quite simply if all the law required for an amount to be a sum-certain was that it appear on an invoice, then the Legislature could have drafted Section 34-31-20 to say as much. But it did not. If this case truly concerned a sum-certain (as defined by the law) then Respondent would be able to provide evidence that the parties agreed to a means, or "formula," by which the alleged invoice amount was calculated—*i.e.,* a formula that explains the difference between the quoted price and the invoice price. But Respondent could not present this evidence because no such agreement existed. Having overlooked this lack of evidentiary support, this Court should grant rehearing.

[1] Under Respondent's reasoning, if this were a sum-certain to hold water, then it must be accepted that the "formula" for determining the amount due would be something akin to "whatever Respondent says it is." To accept such a claim as being sufficient to establish a sum-certain would render the law on the topic meaningless.

C. This Court should grant rehearing because it misapprehended or overlooked that Respondent's own witnesses acknowledged the alleged debt was not due on March 24, 2018, and therefore, there is no evidence to support the trial court's ruling to apply interest from this date.

The trial court granted prejudgment interest effective from March 24, 2018. In affirming, this Court overlooked that there is no evidence that the amount claimed was due on March 24, 2018. In fact, Respondent's own representative testified the amount was **not** due on March 24, 2018.

Even assuming the amount claimed by Respondent was a sum certain (which it is not), it remains that statutory prejudgment interest only accrues from the time the amount was due. *See Tilley v. Pacesetter Corp.*, 355 S.C. 361, 375, 585 S.E.2d 292, 299 (2003) ("If pre-judgment interest is pled" it is permitted only "**from the time the payment is demandable,** either by agreement of the parties or by operation of law.") (emphasis added). A claim for prejudgment interest is properly denied where there is no evidence of any specified time for when the account is due or where there is no evidence the parties "agreed to a contract price" before the plaintiff performed. *See S. Welding Works, Inc. v. K & S Constr. Co.*, 286 S.C. 158, 164, 332 S.E.2d 102, 106 (Ct. App. 1985).

Although the March 24, 2018, invoice bears the designation COD (*i.e.,* "cash on delivery"), the undisputed evidence presented at trial was that neither Appellant nor Respondent intended or agreed that the invoice was payable upon delivery. To the contrary, the only testimony presented at trial by Respondent was that payment was to be made at a later date through the floor-plan financing procedures. *See* (R. p. 79) (In explaining why no money was collected on delivery, Phillip Hathcock, general manager of R-Anell, testified it was because a "floor plan [financier] was supposed to pay for it **not COD**.") (emphasis added); *see also* (R. p. 117) (explaining why

funds were not demanded on delivery Albert Gurner testified that Respondent was expecting the house would be paid by a floor plan financier and that as a result "**we weren't looking for a COD check at that point**.") (emphasis added); (R. pp. 125-26) (Melissa Allen testified that she spoke with Mr. Fautley—the owner of Appellant—and both she and Mr. Fautley were of the understanding the Brown House would be financed through a floor plan financier and not COD).

It remains that if Respondent was not expecting or requesting to be paid on March 24, 2018, then the only possible inference to be drawn is that the invoice was not due on this day.

Furthermore, the evidence presented by Respondent is that "it didn't even realize the Brown House hadn't been paid for until months after it shipped." (R. pp. 100-01). Thus, there can be no inference that Respondent demanded payment on March 24, 2018, if it was unaware the floor plan financier had not issued payment until several months later. *See Smith-Hunter Constr. Co. v. Hopson,* 365 S.C. 125, 128, 616 S.E.2d 419, 421 (2005) (recognizing that interest is payable from the time payment is demandable) (citing *Babb v. Rothrock*, 310 S.C. 350, 426 S.E.2d 789 (1993)).

Finally, it is noted that the terms of the invoice itself are inconsistent with the conclusion that payment was due on March 24, 2018. For example, the invoice states that payment should be remitted to Respondent at its office in Cherryville, North Carolina. (R. pp. 317-19). This is inconsistent with the sale being COD which Respondent testified would require payment be remitted immediately to the driver on delivery. Moreover, the face of the invoice states "This invoice is Due Upon Receipt **unless** the customer has special terms." (R. p. 317) (emphasis added). In this case, those special terms were Respondent's and Appellant's understanding that the sale was to be financed through a floorplan financier. *Compare* (R. pp. 322-25) (the invoice for the Christofoli House—which was undisputedly floor plan financed—bears the same designation of

"Due Upon Receipt unless [there are] special terms"). These facts serve to further demonstrate that there was no agreement between the parties that payment was due on March 24, 2018. *Contra Tilley*, 355 S.C. at 375, 585 S.E.2d at 299 ("If pre-judgment interest is pled" it is permitted only "**from the time the payment is demandable,** either by agreement of the parties or by operation of law.") (emphasis added).

Thus, this Court misapprehended, or overlooked that there is no evidence to support its conclusion that the amount at issue was due on March 24, 2018, and it should therefore grant the instant Petition for Rehearing.

II. This Court Should Grant Rehearing on the Issue of the Economic Loss Rule (*i.e.*, the Dismissal of Appellant's Tort Claims) because this Court's Unpublished Opinion is Inconsistent with Prior Appellate Court Rulings.

In affirming the trial court's grant of directed verdict on Respondent's claim for negligence, this Court opined the negligent claim was barred by the economic loss rule. Although the South Carolina Supreme Court has plainly found an exception to the economic loss rule in the context of residential homes, this Court summarily concluded the exception does not apply here for two reasons; first because the parties had a contract that set out their expectations; and second because the exception can only be claimed by an individual plaintiff rather than a corporate/business entity. As set out below, the law does not support this Court's suggestion that simply because certain duties might be contained in a contract that the economic loss rule automatically applies. Moreover, this Court's suggestion that the application of residential home exception depends on whether the plaintiff is an individual or business—and is only available to an individual plaintiff rather than a business entity plaintiff—is inconsistent with prior rulings of the South Carolina Supreme Court. To the extent this Court is intending to adopt a new rule of law or otherwise narrow

the residential construction exception to the economic loss rule, it should not do so in an unpublished opinion.

A. This Court should grant rehearing because it misapprehended or overlooked that the existence of a contract does not automatically foreclose application of the residential home exception to the economic loss rule.

Relying on *Kennedy,* this Court concluded the economic loss rule applied here because "the expectations of the parties for the delivery of the Christofoli House were set entirely by contract." (Opinion p. 2) *citing Kennedy v. Columbia Lumber & Mfg. Co.*, 299 S.C. 335, 384 S.E.2d 730 (1989). However, this misapprehends the law. The question is not whether the expectations of the parties might be contained in a contract, the question is whether the duties that were breached arise *solely* from the contract.

As it concerns application of the economic loss rule, our Supreme Court has been clear that "[t]he question thus, is not whether the damages are physical or economic. Rather, **the question of whether the plaintiff may maintain an action in tort for purely economic loss turns on the determination of the source of the duty plaintiff claims the defendant owed**." *See Tommy L. Griffin Plumbing & Heating Co. v. Jordan, Jones & Goulding, Inc.,* 320 S.C. 49, 54, 463 S.E.2d 85, 88 (1995) (emphasis added). Where the duty arises **exclusively** by virtue of a contract, an action will not typically lie in tort, however, where the duty would arise independent of the contract, this will support an action in tort. *Id.* at 55, 463 S.E.2d at 88. This is true where the duties arise from both contract and some other source. *See Kennedy,* at 347, 384 S.E.2d at 737. (finding if the defendant "violates a contractual duty *only,* then his liability is only contractual. [But] if he acts in a way as to violate a legal duty, however, his liability is **both** in contract and in tort") (italics supplied by court, bold added).

This Court's reasoning is seemingly backwards, suggesting that because Respondent owed certain duties under contract, it therefore could not owe those same duties in tort. This reasoning is inconsistent with the established law of this State which requires the duty arise **solely** by virtue of the contract in order for the economic loss rule to apply. *See id.* at 347, 384 S.E.2d at 737 (stating the economic loss rule is to apply "where the duties are created **solely** by contract"). Thus, if there exists a duty that is either in addition to the contract duties or duplicative of the contract duties, then the economic loss rule is not implicated. *See id*.

This Court's conclusion that the duties owed by Respondent are limited to contractual duties is flawed for two simple reasons. First, it overlooked that there is no contract setting out these duties as it relates to the Brown House. The only "contracts" between the parties are the dealer agreement and the 2017 quote for the Brown House. Neither of which address Respondent's duties regarding the production of the Brown House. *See* (R. pp. 313-318) (Respondent's initial quote for the Brown House); *and* (R. pp. 333-335) (the dealer agreement).

Second, and even assuming there was a "contract" as it related to the Brown House (which there was not), this Court has misapprehended and overlooked that the duties Respondent breached also arise independent of any purported contract duty.

In 1984 the Legislature enacted the South Carolina Modular Building Construction Act (the "Act"). *See* S.C. Code Ann. §§ 23-43-10 *et. seq.* The Act empowers the State Building Code Council to promulgate regulations which it has done at Article 6 of Title 8 of the South Carolina Code of Regulations. *See* S.C. Code Ann. § 23-43-40; S.C. Code Regs. Ann. §§ 8-600 *et. seq.* (Modular Building Construction); *see also* 24 CFR § 3280 (federal regulations applicable to manufactured home construction and safety standards); 24 CFR § 3281.12 (federal regulations providing certain exceptions for modular homes). By law, no business may sell (whether wholesale

or retail) modular building units in South Carolina without being licensed by the Council. S.C. Code Ann. § 23-43-150; *see also* S.C. Code Regs. Ann. § 8-620(1) (setting forth the licensing requirements for a manufacturer of modular buildings).

In addition to the licensure requirements, South Carolina's regulations provide that all manufacturers of modular homes, like Respondent, are subject to tort liability as contemplated by Section 15-3-630 of the South Carolina Code. *See* S.C. Code Ann. § 15-3-630; S.C. Code of Regs. Ann. § 6-626(1) ("All manufacturers . . . to the extent of their work, shall be subject to the provisions of Section 15-3-630."). Section 15-3-630 contemplates tort actions against architects, engineers, and contractors upon completion of applicable portions of a construction project. Among the types of actions specifically contemplated by this statute are "action[s] to recover damages for economic or monetary loss" as well as actions against "manufacturers of components." S.C. Code Ann. §§ 15-3-640(4) & (9).

Importantly, Respondent's witnesses conceded it was subject to these extra-contractual duties. *See* (R. p. 281, lines 2-8) (Mr. Hathcock conceded, with regard to the Christofoli House, that "this home was subject to the National Manufactured Housing Construction and Safety Standards Act").

In sum, this Court has overlooked that Respondent was subject to duties which arise outside of, and independent from, any contract. That Respondent might have also had similar duties under a purported contract—assuming a contract existed—does not change the analysis. As a result, this Court, like the trial court, has erred in finding Appellant's tort claims were barred by the economic loss rule. Therefore, this Court should grant Appellant's request for rehearing.

B. This Court should grant rehearing because its conclusion that the residential home exception to the economic loss rule is only applicable where the plaintiff is an individual is unsupported by the law of this State.

Secondly, this Court concludes this matter is not excepted from the economic loss rule because Appellant is a commercial entity rather than an individual, holding: "[Appellant's] claim does not fall within the residential home exception because it is a commercial entity, not an individual homebuyer." (Order p. 2).

However, at least until the issuance of this Court's opinion in this matter, the law has never mandated that a plaintiff be an individual to assert the relevant exception to the economic loss rule. This Court's opinion effectively creates a new rule of law that makes application of the residential construction exception to the economic loss rule turn on whether the plaintiff is an individual versus a corporation or other business entity. Notwithstanding the plethora of potential constitutional, legal, and equitable problems with adopting such a rule, this Court should not venture to change or expand the law through an unpublished and summary opinion.

Regardless, the more pressing problem is that this Court's ruling is inconsistent with the Supreme Court's ruling in *Kennedy,* in the most fundamental way. In *Kennedy,* the Supreme Court carved out the residential exception to the economic loss rule, and in doing so specifically overruled *Carolina Winds Owners' Ass'n v. Joe Harden Builder, Inc.*, 297 S.C. 74, 78, 374 S.E.2d 897, 900 (Ct. App. 1988)—a prior Court of Appeals decision which held there was no tort liability against a builder.

Plainly the ruling in *Kennedy,* had it been applied in *Carolina Winds,* would have commanded a different result in that case. *See Kennedy,* 299 S.C. 335, 341, 384 S.E.2d 730, 734 (stating *Carolina Winds* "reaches a result that is repugnant to [] South Carolina [public] policy"). Importantly, the plaintiff in *Carolina Winds* was a business entity—specially, an incorporated or "Inc." entity. Thus, if the *Kennedy* Court intended that its ruling should only apply to individuals, there would be no reason for it to have specifically overruled *Carolina Winds.* Consequently, this

Court's conclusion that *Kennedy* only applies to individual plaintiffs, rather than business entities, is not only a new rule of law, but it is also at odds with *Kennedy.* Therefore, this Court should grant Appellant's petition for rehearing to address how and why its ruling can be reconciled with *Kennedy*.

III. <u>This Court Should Grant Rehearing on the Issue of the Admissibility of Email Evidence</u>.

This Court affirmed the trial court's ruling that the subject email thread was irrelevant based on the summary conclusion that it "did not pertain to the houses or the plastic wrapping issues involved in this case." (Order pp. 3-4) (also stating: "The emails did not address issues with the Christofoli House or Brown House, and the unspecified problems the delivery company's drivers had with the plastic wrapping, which do not appear to have resulted in damage to the house delivered, are not relevant to the issues with the plastic wrapping on the Christofoli House."). This misapprehends the facts.

The reference line of the subject email (Exhibit 12) reads "40876." (R. p. 341). This is the serial number for the Christofoli House. *See* (R. p. 339) (showing the serial number for the Christofoli House). Respondent's counsel acknowledged the same. (R. p. 75, lines 5-6). This email exchange plainly begins with discussions related to the overloading of the Christofoli House and the extraordinary efforts the delivery company went through to make sure it could meet Respondent's delivery schedule. (R. p. 341). The suggestion that this email does not pertain to the houses at issue is incorrect—it speaks directly and specifically to the Christofoli House.

Moreover, the suggestion that the email does not relate to the issues regarding the wrapping of the house is also not supported by the evidence either. This Court, like the trial court, focused on the singular fact that the problems the delivery company had "yesterday" did not relate to the Cristofoli House. (Order p. 3-4). However, this is an overly narrow analysis. The subject of the

email is not limited to "yesterday's" problem. To the contrary, it contains an admission by Respondent that problems with the plastic wrapping "happen from time to time." (R. p. 341).[2] This acknowledgement is as relevant to the Christofoli House as it is to the house that was delivered "yesterday." Moreover, the email reflects that even with the knowledge that problems happen from time to time, Respondent only equipped the delivery company with tape rather than mechanical fasteners. *See* (R. p. 80-81). This is all relevant information to aid the jury. Particularly in the face of Respondent's contrary assertion that it had never had a problem with its wrapping before. *Contra* (R. p. 74) (Philip Hathcock, testifying for Respondent that "We never had a complaint [about the wrapping] until this email."). [3]

Accordingly, this Court's conclusion that this email has nothing to do with the house in question or the plastic wrapping is incorrect, and it should therefore grant rehearing.

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[2] It also bears mention that this email is relevant to impeaching Respondent's assertions related to the wrapping. *See* (R. p. 74, line 9-10). (Phillip Hathcock asserting "We never had a complaint [about the wrapping] until this email."); *contra* (R. p. 341) (Exhibit 12 – email in which Melissa Allen concedes problems with the wrapping "happens from time to time"); *see also* (R. p. 81, lines 6-8) (Appellant's counsel asserting the email is relevant because it evidences Respondent's use of tape to secure plastic wrapping which serves to contradict or impeach the claim that plastic wrap is attached with mechanical fasteners).

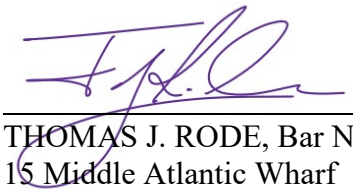
[3] At footnote number 1, in its opinion, this Court finds Appellant's assertion that the email is relevant because it references the weight of the Christofoli House is not preserved. First, the fact that this Court acknowledges the email references the weight of the Christofoli House is internally inconsistent with this Court's assertion that the email does "not pertain" to the Christofoli House. Plainly the email refers to the weight of the Christofoli House, and therefore indisputably "pertains" to the Christofoli House. Second, the issue of the weight of the Christofoli House was directly referenced in Appellant's proffer of this evidence. *See* (R. p. 74, lines 1-8). No magic language was otherwise required to raise this fact, when Appellant's counsel asserted these emails were relevant as circumstantial evidence of problems with Respondent's homes being properly prepared for transport.

CONCLUSION

For the above-stated reasons, this Court should grant the instant Petition for Rehearing.

Respectfully submitted,

THURMOND KIRCHNER & TIMBES, P.A.



THOMAS J. RODE, Bar No. 77480
15 Middle Atlantic Wharf
Charleston, South Carolina 29401
Phone: 843-937-8000
Fax: 843-937-4200
Email: thomas@tktlawyers.com
Attorneys for Appellant

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The Honorable Jocelyn Newman, Circuit Court Judge

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PROOF OF SERVICE

The undersigned certifies that she served a copy of the foregoing **Appellant's Petition for Rehearing** to all counsel of record on August 24, 2023, by mailing a copy of same, electronically or with proper postage affixed thereto, as follows:

Robert P. Mangum, Esq.
James S. Murray, Esq.
Turner Padget Graham & Laney, P.A.
P.O. Box 1495
Augusta, GA 30903
rmangum@turnerpadget.com
jmurray@turnerpadget.com
Attorneys for Respondent

Sarah D. Baum, Attorney

THURMOND KIRCHNER
& TIMBES, P.A.
ATTORNEYS AT LAW

15 Middle Atlantic Wharf
Charleston, SC 29401
o: 843.937.8000
f: 843.937.4200
www.TKTLawyers.com

August 24, 2023

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SC Court of Appeals

VIA EMAIL

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals Clerk of Court
P.O. Box 11629
Columbia, SC 29211
ctappfilings@sccourts.org

Re: R-Anell Housing Group, LLC, v. Homemax, LLC // 2021-000658

Dear Ms. Kitchings:

Enclosed for filing please find Appellant's Petition for Rehearing. The filing fee for this Petition was put into today's mail. If you have any questions, please do not hesitate to contact us.

Very truly yours,

THURMOND KIRCHNER & TIMBES, P.A.

Sarah D. Baum

Enc. As Stated