

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

NOV 27 2023

APPEAL FROM RICHLAND COUNTY  
CIRCUIT COURT

SC Court of Appeals

DeAndrea Gist Benjamin, Circuit Court Judge  
Case No. 2019-CP-40-00919

Appellate Case No. 2022-001434

Emad Tadros, as Trustee of the Grace Living Trust dated October 12, 2010, as amended.....Appellant,

v.

Holder Properties, Inc., John R. Holder, Individually, ADESSO/Columbia, LLC, ADESSO Horizontal Property Regime, and ADESSO Homeowners' Association, Defendants,

of which

ADESSO/Columbia, LLC, ADESSO Horizontal Property Regime, and ADESSO Homeowners' Association ,.....Respondents.

**REPLY TO RESPONDENTS' PETITION FO REHEARING OR FOR CLARIFICATION**

**Factual Background**

Appellant moved, on October 11, 2023, pursuant to Rule 240 of the South Carolina Appellate Court Rules, Appellant to remand the case to the trial court to allow for the creation of a transcript of record, given the approximately fifty-four (54) inaudible and noise interference contained in a sixty-nine (69) page transcript to be used in the appeal.

This Court issued an Order on November 6, 2023, denying the Appellant's motion to remand for a new hearing, but holding the appeal in abeyance and remanding this appeal to the

circuit court for reconstruction of the record. The November 6, 2023, Order held that the Appellant shall contact opposing counsel and the Honorable Jocelyn Newman, the Chief Administrative Judge for Common Pleas for the Fifth Circuit, within 10 days of the date of the November 6, 2023, Order.

Counsel for the Appellant contacted the Honorable Jocelyn Newman, and copied opposing counsel on November 9, 2023, as instructed by this Court requesting hearing dates to reconstruct the record.

Counsel for the Respondent filed its Petition for Rehearing or for Clarification on November 17, 2023, after counsel for Appellant had already contacted Judge Newman as directed by this Court to schedule a hearing date.

### Argument

**Respondent did not seek a Petition for Rehearing or for Clarification until after the Circuit Court had been notified to attempt to reconstruct the record as this Court held.**

Any party opposing a motion or petition, shall have ten (10) days from the date of service thereof to file an original and six (6) copies of his return with the clerk and serve a copy of the return; . . . Failure of a party to timely file a return may be deemed a consent by that party to the relief sought in the motion or petition. Rule 240(e), SCACR.

**Respondent did not file its Petition for Rehearing or for Clarification in time.**

Respondent filed its Petition for Rehearing or for Clarification on November 17, 2023, after Appellant's counsel had contacted the Circuit Court to schedule a hearing as directed by this Court in its Order filed November 6, 2023.

The delay by the Respondent in filing its Petition for Rehearing or for Clarification is time barred by Rule 240(e) SCACR and thus deemed as consenting to the relief requested by Appellant in its Motion to Remand for new Hearing to Create Transcript and Record from Hearing.

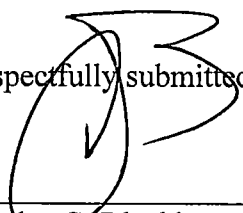
**Respondent consents to a status conference to reconstruct the record making its motion for rehearing moot.**

Exhibit A contains Respondent's reply to the November 9, 2023, email to Judge Newman and all parties from Appellant's counsel as directed in the November 6, 2023, Order from this Court. Respondent's delay in filing its Petition for a Rehearing cannot avoid being time barred by Rule 240(e) SCACR.

The delays in this appeal are well documented. Particularly the approximately one-year delay in the Order granting Respondent's Motion for Summary Judgment (the "hearing") and followed by the approximate nine-month delay in obtaining the transcript from the hearing including the noise interference and inaudible deficiencies in the transcript.

Because the transcript has significant omissions and inaudible sections, the court cannot conduct a meaningful appellate review. As a result, this court should allow the Circuit Court to fulfill its holding in its November 6, 2023, Order and schedule the hearing of this matter.

Respectfully submitted,



---

Charles G. Blackburn  
T. Jeff Goodwyn, Jr.  
Goodwyn Law Firm, LLC  
2309 Devine Street  
Columbia, South Carolina 29205  
(803) 251-4517  
[CBlackburn@Goodwynlaw.com](mailto:CBlackburn@Goodwynlaw.com)  
[JGoodwyn@Goodwynlaw.com](mailto:JGoodwyn@Goodwynlaw.com)

Attorneys for Appellant

Columbia, South Carolina  
November 26, 2023

## Charles Blackburn

---

**From:** Wilson, Skyler C. <swilson@csvg.law>  
**Sent:** Thursday, November 9, 2023 2:34 PM  
**To:** jnewmanj@sccourts.org; jnewmanlc@sccourts.org  
**Cc:** Charles Blackburn; jgoodwyn@goodwynlaw.com; Mackelcan, Douglas W.; Moran, Rosie  
**Subject:** RE: Tadros v. Adesso - 2019-CP-40-00919 - Appellate Case No.: 2022-001434  
**Attachments:** Ct. App. Order re Reconstruction Hearing(7187682.1).pdf; Tadros v. Adesso - Jan. 7, 2021 MSJ Hearing Transcript(7189773.1).pdf

Good afternoon Judge Newman,

My name is Skyler Wilson and my firm and I represent Adesso Horizontal Property Regime in this matter. My email from Mr. Goodwyn did not have the order, and I am not sure if you experienced the same issue. Therefore, the order he referenced is attached again.

Generally speaking, this appeal involves Mr. Tadros's claims against Adesso related to property he has within the regime. Judge Benjamin held a hearing on Adesso's motion for summary judgment on January 7, 2021, and granted the order. There were issues with the transcript of the hearing, which is also attached. The transcript was created from a WebEx recording taken during the hearing. The transcript is why the Court of Appeals remanded the case to your honor for reconstruction.

I am sure the parties would be happy to participate in a status conference with your honor to explain the details of the case and how we best may work to reconstruct the record.

Respectfully,

Skyler



**Skyler C. Wilson**  
**Attorney**

d: 843.266.8221 | f: 843.727.2995

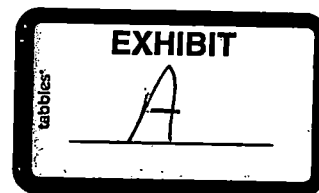
[swilson@csvg.law](mailto:swilson@csvg.law) | [www.csvg.law](http://www.csvg.law)

40 Calhoun Street, Suite 400, Charleston, SC 29401

---

**From:** jgoodwyn@goodwynlaw.com <jgoodwyn@goodwynlaw.com>  
**Sent:** Thursday, November 9, 2023 2:09 PM  
**To:** jnewmanj@sccourts.org; jnewmanlc@sccourts.org; Mackelcan, Douglas W. <dmackelcan@csvg.law>  
**Cc:** Wilson, Skyler C. <swilson@csvg.law>; Charles Blackburn <cblackburn@goodwynlaw.com>  
**Subject:** Tadros v. Adesso - 2019-CP-40-00919 - Appellate Case No.: 2022-001434

Judge Newman –



Attached is an order from the Court of Appeals dated November 6, 2023 remanding the case back to your court to do what you can to try to reconstruct the record after the transcript had

more than 50 inaudible sections. The order instructs me to reach out to you and opposing counsel within 10 days of the date of the order informing you of the order and what it requires of us.

The Court of Appeals has instructed the trial court to hold hearing and take any other steps necessary to accomplish the task of reconstructing the record, if possible. If you decide that it is not possible, we are instructed to let the Court of Appeals know this.

Thank you –

<< File: Order dated 110623.pdf >>

**T. Jeff Goodwyn, Jr.**  
Goodwyn Law Firm, LLC  
2309 Devine Street  
Columbia, SC 29205  
(803) 251-4517  
(803) 251-4527 (fax)  
[www.Goodwynlaw.com](http://www.Goodwynlaw.com)

CONFIDENTIAL AND PRIVLEDGED

-----  
Unless otherwise indicated or obvious from the nature of the following communication, the information contained herein is attorney-client privileged and confidential information/work product. The communication is intended for the use of the individual or entity named above. If the reader of this transmission is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error or are not sure whether it is privileged, please immediatly notify us by return e-mail and destroy any copies, electronic, paper or otherwise, which you may have of this communication.  
-----

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

APPEAL FROM RICHLAND COUNTY  
CIRCUIT COURT

NOV 27 2023

SC Court of Appeals

DeAndrea Gist Benjamin, Circuit Court Judge

Case No. 2019-CP-40-00919  
Appellate Case No.: 2022-001434

Emad Tadros, M.D.,.....Appellant,

v.

Holder Properties, Inc.,.....Respondents.

**PROOF OF SERVICE**

I certify that I have served a copy of a **Reply to Respondent’s Petition for Rehearing or For Clarafication** on Douglas W. Mackelcan, Esquire, and Skylar C. Wilson, Esquire, counselors for the Respondents at the address below via email and by depositing a copy of same in the United States Mail, postage prepaid, on November 27, 2023.

Douglas W. Mackelcan, Esquire  
Skylar C. Wilson, Esquire  
Copeland, Stair, Valz & Lovell, LLP  
40 Calhoun Street, Suite 400  
Charleston, SC 29401  
[dmackelcan@csvg.law](mailto:dmackelcan@csvg.law)  
[swilson@csvg.law](mailto:swilson@csvg.law)

*(Signature on next page)*



**GOODWYN LAW FIRM, LLC**

---

T. Jeff Goodwyn, Jr., SC Bar No. 73789  
Charles G. Blackburn, SC Bar No. 69458  
2309 Devine Street  
Columbia, SC 29205  
(803) 251-4517  
[jgoodwyn@goodwynlaw.com](mailto:jgoodwyn@goodwynlaw.com)  
[cblackburn@goodwynlaw.com](mailto:cblackburn@goodwynlaw.com)  
*Attorneys for Appellant*

Columbia, South Carolina  
November 27, 2023

T. Jeff Goodwyn, Jr.\*\*†  
Charles G. Blackburn\*\*  
Jefferson D. Turnipseed\*\*

\*Also Licensed in Georgia  
† Certified Circuit Court Mediator  
\*\* Of Counsel

# GOODWYN LAW FIRM, LLC

2309 Devine Street  
Columbia, South Carolina 29205

Tel. (803) 251-4517  
Fax (803) 251-4527

Email: JGoodwyn@Goodwynlaw.com  
CBlackburn@Goodwynlaw.com  
JTurnipseed@Goodwynlaw.com  
Web: www.GoodwynLaw.com

November 27, 2023

## VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

RECEIVED

NOV 27 2023

SC Court of Appeals

RE: *Emad Tadros, M.D. v. Holder Properties, Inc.*  
*Appellate Case No.: 2022-001434*  
*Our File No.: 4000-0007*

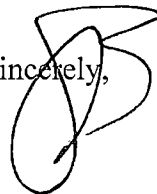
Dear Ms. Kitchings:

Enclosed for filing, please find the original and one copy of a **Reply to Respondent's Petition for Rehearing or For Clarafication** in regards to the above referenced matter. Please file the original and return a filed copy of same to me in the self-addressed stamped envelope provided.

As evidenced in the Proof of Service, I have served all interested parties with a copy of this Reply.

Thank you for your attention to this matter and should you have any questions, please do not hesitate to contact me.

Sincerely,



Charles G. Blackburn

CGB/msb  
Enclosures

cc: Douglas W. Mackelcan, Esquire  
Skyler C. Wilson, Esquire  
Emad Tadros