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Aug 07 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable George M. McFaddin, Jr, Circuit Judge

Appellate Case No. 2024-001160

SHEILA SLOMOVITZ and
MARYCO REALTY, LLC

Respondents,

v.

ANDREW SPERLING and
NINA SPERLING

Appellants.

MOTION TO REINSTATE APPEAL

Please take notice that Appellants Andrew Sperling and Nina Sperling, by and through their undersigned lawyer, respectfully request this court to reinstate their appeal per SCACR 260 on the grounds that it was timely filed and served. On May 29, 2024, Appellants received the order from which they are now appealing. Thirty days after the May 29, 2024 is Saturday June 29th, and the next business day was Monday July 1, 2024, which was the date Appellants timely filed/served their Notice of Appeal.

Furthermore, equity and the inherent equitable power of our courts support a decision to reinstate (and ultimately grant) the appeal so that this sad family dispute of a sister taking advantage of her brother during a time of despair can be decided on the merits. Appellants have

demonstrated that they have an explanation for the timeliness of their various filings, they put in a previous answer to the original complaint, they are timely filing this motion, they have meritorious defenses asserted in their timely answer as well as evidenced by the magistrate court previously dismissing the underlying eviction, Plaintiffs will not be prejudiced by the default being lifted as they continue to collect payments from Defendants (and already own the subject property as collateral under inequitable terms), and there is more than a mere scintilla of evidence as to a genuine issue of material fact regarding the foregoing issues that surround the dismissal of their appeal, the default, and/or summary judgment.

This motion is based upon the following: the South Carolina Rules of Civil Procedure, the South Carolina Appellate Court Rules, the South Carolina Code of Laws, the common law and equitable principles of South Carolina, any other controlling or persuasive law/equity, a memorandum of law that may be submitted before a hearing on this matter; argument of counsel at a hearing on this matter, and the Court's inherent power to do all things reasonably necessary to insure that just results are reached to the fullest extent possible.

August 7, 2024

s/ Irish "Ryan" Neville
Irish "Ryan" Neville (SC Bar I.D. 76513)
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Attorneys for Respondents

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CERTIFICATE OF SERVICE

On behalf of Appellants Andrew Sperling and Nina Sperling, the undersigned hereby certifies that on August 7, 2024 Appellants' Motion to Reinstate filed herewith was served upon the Respondents *Sheila Slomovitz and Maryco Realty, LLC* by emailing a copy to their lawyers M. Dawes Cooke and G. Hudson Worthy when the same was filed with the Clerk of Court.

August 7, 2024

s/ Irish "Ryan" Neville

Irish "Ryan" Neville (SC Bar I.D. 76513)

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