

Ronald Jarmuth
249 Pickering Drive
Murrells Inlet, SC 29576
843-314-4355
July 26, 2013

RECEIVED

JUL 29 2013

SC Court of Appeals

The Honorable Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211-1629
803-734-1890

Re: Issues with Respondent Concerning Record on Appeal
Appeal 2013000714 Jarmuth v International Club HOA et al
2009CP263596 in the Court of Common Pleas, Horry County

Dear Madam Clerk:

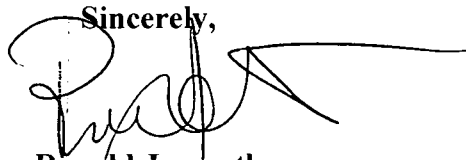
I am writing this to inform you about issues concerning Respondent's copy of the Record on Appeal.

Today I received (by email) and dealt with issues raised at the last moment by Respondent's Counsel concerning the Record on Appeal. The issues do not affect in any way Respondent's capability of converting page numbers from citations to documents to citations to page numbers in the Record on Appeal.

As you can see by my letter to Respondent's Counsel, all of Respondent's issues have been dealt with; most of them do not even concern the copies filed with the Court of Appeals and mysteriously are local only to Respondent's copy. While I disagree with Respondent's Counsel about two issues (which likewise have no effect on page renumbering) I am making those changes (as indicated in my Letter to Respondent's Counsel) in the Court of Appeals' copies.

Thank you for your attention to this matter.

Sincerely,



Ronald Jarmuth
Appellant Pro Se
249 Pickering Drive
Murrells Inlet, SC 29576

Cf: Henrietta Golding, Attorney for Respondents

Ronald Jarmuth
249 Pickering Drive
Murrells Inlet, SC 29576
843-314-4355
July 26, 2013

Alicia Thompson
McNair Law Firm, P.A.
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JUL 29 2013

SC Court of Appeals

Re: Record on Appeal, Jarmuth v IHOA in the SC Court of Appeals
Tracking No 2013000714

References:

- a. June 12, 2013 Service of Appellant's Designation of Record on Appeal.
- b. July 11, 2013 Service of Record on Appeal on Counsel for Respondent.
- c. January 23, 2012 Defendant's Brief in Opposition to Post-Trial Motions
Exhibit I (Juxtaposition) RoA Pp 904 - 927.

Dear Ms. Golding:

I am surprised by your claim that four (4) business days before your Final Response Brief is due and fifteen (15) days after service of your copy of the Record on Appeal (on you) you have suddenly discovered discrepancies in the Record on Appeal – all of which could easily been timely remedied or explained if you had “consulted” with me as the rules seem to require prior to filing any motion. I note that not a single one of your alleged issues precluded you from timely filing your final Response Brief and sufficient time remains (it is due to be mailed on July 31, 2013) to remedy the issue without interfering with your filing.

I also note that you have had a copy of the Transcript of Trial since at least January 23, 2012, and that you used said Transcript to prepare your January 23, 2012 Brief. In your Exhibit I (Juxtaposition) you cite to Transcript page and line number. I note that although I paid for the preparation of the Transcript for the Court I did not get my copy until January 25, 2012.

I note that all you are permitted to do at this point is to replace page references to actual documents to the page numbers where the same pages are found in the Record on Appeal - a simple matter for you.

I address each of your issues in turn.

(1) "The Order Denying Respondents' Motion to Dismiss filed May 6, 2012"

There is no order filed on May 6, 2012 and none with the title you cite.

On May 7, 2012 you filed a Motion for a Protective Order.

On May 17, 2012 the Court entered an Order permitting me to Amend my Complaint(s).

On May 17, 2012 the existing Order on page 6 of the RoA which compelled discovery was granted.

On May 17, 2012 the Court granted your Protective Order.

And on May 17, 2012 (last in the order these Orders were filed), the Court entered a Consent Order that no unresolved motions remaining – the Order which you have provided a copy of.

I note that in your Response Brief your argument does not depend on any of these Orders. I also note from past experience that if I had used the title you suggest for the Order you provide that you would have accused me of misrepresenting the tenet of the Order.

As a courtesy to you I am replacing the discovery Order with the one you provided. A duplex printed replacement page with that order (as page 6) with the existing page 5 on the obverse, is provided for your use.

(2) "Two copies of Record pp. 101 and 2852 are included;

I have examined my copy of the RoA and the Appellate Court copies and the problem does not exist there. I suggest you simply "pull" or ignore the duplicate pages. Their presence does not alter the page numbering of any other page and thus does not interfere with your citing to the pages in the RoA – the sole task before you at this time.

(3) "Two copies of the Respondents' proposed Final Order are included in the Record, pp. 563-610 and 611-658;"

I am providing you replacement pages 611 and (duplexed) 612 which have the notation that pages 611 through 658 have been deleted. If the presence of duplicates is intellectually troubling to you simply pull them from your copy. The duplication does not hinder your substitution of RoA page numbers for document citations. Just be careful to use those in the range 563 through 610.

The replacement of pages 611 through 659 with the "delete" page will be made to the Court of Appeals copies.

(4) "Record pp. 2853 through 2876 are not in proper order"

This is perplexing because none of the other sets have this problem. According to you this involves twelve duplexed sheets of paper. Clearly this will not interfere with your citing to the RoA page numbers since both the original transcript page number and RoA

page numbers are on the upper right of each page . Perhaps it will take you a half a minute to log them. For your convenience you don't even have to look at the RoA to make the conversion from Initial Response Brief Transcript page number to RoA page number:

“Add 1865 to the Trial Transcript Page to get the RoA page”,

So as far as going from references to trial transcript pages in your Initial Brief to RoA Transcript Page Numbers, the RoA is superfluous.

(5) **“Trial Transcript pp. 1012, 1014, 1016, 1018, 1020, 1022, 1024, 1026, 1028, 1030, 1032, and 1034 are missing”**

Please recall that you have been in possession of those pages since at least January 23, 2012 (I paid for the preparation of the trial transcript). Clearly you have already found the citations you desire ever before I delivered the RoA – since you cited to them in your Initial Response Brief which you are not permitted to change.

Simply add 1865 to the page numbers you have already identified in your Response Brief.

These pages are not missing from any other copy of the RoA.

Rather than dispute the existence of the issue I am providing you duplexed (and pre-punched) pages 2877 through 2900 so you now have a “complete” set for your file.

(6) **“Appellant's notations are included on the Respondents' August 8, 2012 pre-trial brief, Record pp. 3065-3071“.**

The document you refer to ends on RoA page 3077. Page 3071 is my “screen shot / dump” or your CD document titles and the notation on that page is as it appeared on the corresponding page handed at trial to the Special Referee, and was created by the computer's file system when the screen shot was taken.

I am providing you a copy of pages 3065 to 3070 without any notations. Corresponding pages will be inserted into the Court of Appeals copies.

(7) **“Appellant's notations are added throughout the transcripts of the proceedings and depositions, including on Record pp. 1388 and 2024, which is improper.”**

Looking at the RoA pages you cited, these are the notations required by SCACR Rule 210(c), the relevant portion of which I quote below:

“RULE 210 RECORD ON APPEAL

(c) Content. ...

Where witness testimony is included in the Record on Appeal, the first page of each witness's direct, cross, redirect and recross examination must show the name of the

witness, the phase of examination and the name of the counsel conducting the examination. If this information is not already reflected on the page, the top of the page shall be annotated with the required information in the following form: John H. Doe--Direct (Cross) (Redirect) (Recross) Examination by Mr. Smith.”

I suspect that if I had not inserted the required notations you would have complained about their absence as much as you complain about their presence. While I do not have exemplars of your work, it appears that if you have done these in the past you have ignored the mandate of this rule, else you would not have raised my compliance with the rule as a putative non-compliance.

(8) “Exhibit lists found in the Record with your notations, pp. 3089 - 3099, were not handed up to the trial judge and should be stricken”

I referred to the marked up copies of your January and August (2012) Rule 16 material and the CD in my initial Brief and Reply Brief, and listed them

On June 12, 2013 I served my Designation of Record on Appeal on you. If you look at page 3 under the category “Additional Material” you will see these three items listed beginning with the phrase “August 8, 2012 ...” I plainly informed you of my intention to include this material. I note that your Rule 16 material itself is NOT an actual pleading and was not itself filed BY YOU with the Court. My Rule 16 pleadings, on the other hand, were all filed and clocked by the Clerk of Court. Thus if you insist that my Rule 16 markups of your submissions are improper than you may not depend on your citations to your Rule 16 submissions – which you specifically designated for inclusion on June 3, 2013.

The actual Record on Appeal was served on you July 11, 2013, so for the last fifteen (15) days you ignored the issue. You clearly had read (and responded) to my references to my markups which were in my Initial Brief served on you April 27, 2013 and did not raise this issue at that time. If this were in the lower court you had ten (10) days to file an objection.

That being said you have previously asserted the obligation to include, in the Record on Appeal, any matter designated by a party, without regard to it’s bearing on the issues raised. These documents bear on critical issues – the failure of the Special Referee to deal with “Trial By Ambush”. These documents are clearly relevant to the decision on this issue by the Court of Appeals.

You were physically in the Courtroom when I handed the Judge the three marked up documents. He had them in his hand and retained the copies I provided him. You were simultaneously handed likewise marked up copies of the same documents and you kept your copies.

The transcript relates that I addressed the “Trial By Ambush” (which is an ethics violation as well) at trial:

Transcript Page 80 RoA Page 1942

23 EXHIBITS, I BELIEVE, IN JULY, AND THEY WERE IDENTIFIED BY -- IF I MAY

Transcript Page 81 RoA Page 1943

I PASS THIS TO THE DEFENDANT AND I CAN PASS IT TO YOU, THIS IS HOW THEY'RE IDENTIFIED ON THE CD, WITH THE TITLES OF THE EXHIBITS.

20 MR. JARMUTH: BUT AS YOU CAN SEE, THERE ARE BATES NUMBERS ON EACH AND A CRYPTIC DESCRIPTION,

Transcript Page 87 RoA Page 1949

10 THE BIG PROBLEM IS IT ADDED THREE WITNESSES WHO WERE NOT ON THE JANUARY 11TH LIST, AND THEREFORE, I DID NOT HAVE AN OPPORTUNITY TO DEPOSE THEM, AND I BELIEVE THAT THAT CONSTITUTES A TRIAL BY AMBUSH.

Transcript Page 88 RoA Page 1950

1 SECONDLY, THE JANUARY 11TH VERSION OF THE RULE 16, WAS THE 79 EXHIBITS.

9 THAT. IN THE THING THAT I GOT BY EMAIL YESTERDAY, WHICH I'VE NEVER GOTTEN PAPER, WHICH WAS DATED TODAY, AS A MATTER-OF-FACT, THE RULE 16 IS SIGNED BY MS. GOLDING, AUGUST 8TH AS THE DATE, THEY LISTED A TOTAL AMOUNT OF 114 EXHIBITS, WHICH ARE COMPLETELY DIFFERENT THAN THE LIST ON THE JANUARY 11TH THING AND, MOST IMPORTANTLY, IF YOU LOOK AT THE EXHIBIT LIST, THEY BEAR ABSOLUTELY NO RELATIONSHIP TO THE THING THEY GIVE ME

Transcript Page 89 RoA Page 1951

1 ON THE CD. EARLIER, THEY SHOULD BE INADMISSIBLE BECAUSE IT'S TRIAL BY AMBUSH. YOU CAN'T ON THE DAY OF THE TRIAL BRING IN EVIDENCE THAT YOU HAVEN'T PROVIDED THE OTHER SIDE,

As a test I went to my copy of your Initial Response Brief and converted your page numbers to RoA Page numbers. It took me less than two hours. With two staff attorneys assigned to this case (yourself and Ms. Golding) I don't see why you can't do the same in the remaining three (3) business days before you are required to mail your copy of the Respondent's Final Response Brief at the end of Wednesday, July 31, 2013 next week.

(9) After receipt of your email I again examined the RoA and found that the Brief and Memo supporting my proposed trial order were omitted from the Order. I have printed them and provide them to you, page numbered for the end of the RoA. I note that neither of us actually refer to those pages in our respective briefs.

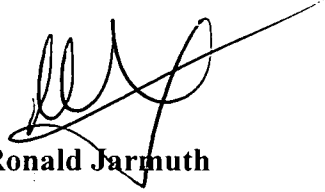
(10) I have revised the Index to reflect the issue at page 611 and the insertion of the Brief

and Memo (#9 above). I provide you a complete revised Index.

(11) I have revised the Certificate of Counsel and Proof of Service to reflect this matter and provide you copies of same with revised page numbers (reflected in the revised Index).

For the reasons cited above I will oppose any extension you may request for you to submit your final Response Brief.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ronald Jarmuth', written over a horizontal line.

Ronald Jarmuth

RoA Encl:

- * Page 5 – 6.
- * Page 611 – 612
- * Pages 2877 – 2900
- * Pages 3065 – 3070
- * Pages 4425 – 4648 (added)
- * Revised Index
- * Page 4649 Revised Certificate of Counsel
- * Page 4650 Revised Proof of Service

CF: Clerk of Court of Appeals