

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Ralph P. Stroman, Special Referee

Case No. 2009-CP-26-3596
Consolidated with
Case No. 2010-CP-26-11320

Appeal No. 2013-000714

RECEIVED
AUG 06 2013
S.C. Court of Appeals

Ronald Jarmuth, Appellant,

v.

The International Club Homeowners
Association, Inc., Rosemary Toth,
and K. A. Diehl & Associates, Respondents.

APPELLANT'S OPPOSITION TO
RESPONDENT'S
MOTION FOR EXTENSION TO FILE FINAL BRIEF

Appellant Ronald Jarmuth states his opposition to Respondent's Motion for an Extension of time to file Respondent's Final Brief.

Appellant incorporates by reference Appellant's simultaneously filed Opposition to Respondent's Motion to Amend the Record on Appeal.

For cause, Appellant asserts the following which is detailed in the Appellant's Opposition to Respondent's Motion to Amend the Record on Appeal:

1. Every reference in Respondent's Initial Brief to text on the page of a document or to deposition or trial testimony is and has been present in the Record on Appeal as filed.

2. Respondent's Initial Response Brief does not refer to the supposedly

missing pages in the Record on Appeal.

3. The existing Index in the Record on Appeal accurately points to the starting page of any and every document in the Record on Appeal.

4. Every document designated by Respondent, to the extent it actually exists, is in the Record on Appeal; the document(s) that Respondent belatedly demands to be added were added to the Record on Appeal well prior to the filing of the Motion – as was known by Respondent’s Counsel.

5. Respondent’s sole task at this moment is to translate references to pages in documents – references present in the Initial Response Brief – to references to counterpart pages in the Record on Appeal. Every page reference in Respondent’s Initial Brief has a counterpart page which can be references in the Record on Appeal and said counterpart document can be almost instantly identified by use of the Index as filed and perusal of the Record on Appeal as it was provided to Respondent well before the Motion was filed.

6. A dispute as to notations (especially on pages never cited to by Respondent) is not an impediment to translating page numbers. At worst the pages would be replaced one for one, perpetuating the page numbers. It is noted that on July 26, 2013, as explained in Appellant’s parallel pleading in opposition to Respondent’s Motion to Amend the Record, Appellant informed Respondent’s counsel that Appellant, as a test, had successfully replaced every page reference in (the copy provided Appellant) Respondent’s Initial Response Brief with a counterpart page reference to the Record on Appeal – in TWO (2) hours.

7. At best Respondent did not exercise due diligence in executing Respondent’s sole task of translating page numbers. On June 12, 2013 Respondent was provided the final list of documents to be in the Record on Appeal, incorporating

Respondent's June 3, 2013 designation of material for the Record on Appeal. This was approximately six (6) weeks before Respondent filed Respondent's two Motions. On July 11, 2013, twenty (20) days before Respondent filed this Motion, Respondent was served the Record on Appeal. The last moment demand to Amend the Record and to Extend the deadline can only be explained either by Respondent's Counsel waiting until the last possible moment to translate page numbers – or by Respondent filing both motions for improper purpose. It is a fact that the legitimate changes sought by Respondent (none of which affected page numbers in translation to the Record on Appeal) were made July 29, 2013 – the changes being related to Respondent's counsel by July 26, 2013 letter delivered July 29, 2013. It is a fact that Respondent ignored that the fixes were made and in Respondent's July 31, 2013 Motion to Amend demanded changes Respondent knew had been made days before (or that the Court's copies of the Record had no missing pages ¹).

In Respondent's Motion Respondent never claims that anything precluded Respondent's Counsel from either identifying the putative "issues" long ago nor that anything in particular, such as case load, obstructed Respondent's counsel from attending to Respondent's Final Brief long ago. In point of fact Respondent's Counsel never actually claims that any page Respondent's Counsel actually cites to is not present in the Record on Appeal as filed. Instead, Respondent's counsel states that "Respondents cannot submit a Final Brief until the omissions in the Record on Appeal are corrected" which putative omissions do not leave Respondent without any cited counterpart Record on Appeal page. The applicable rule is clear – the only task left to

¹ Respondent complained that several pages (which Respondent never actually referred to in Respondent's Brief) were missing. Replacement copies were provided July 26, 2013 and Respondent was informed that the corresponding pages were NOT missing in the copies at the Court of Appeals. None – the – less Respondent has demanded that those perfectly good pages in the Record on Appeal be replaced.

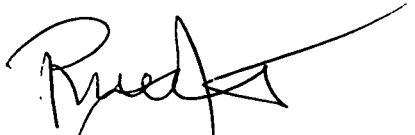
Respondent at this time is to translate page and line references. A dispute about documents to which Respondent's Brief does not make a page / line reference is not a basis to delay filing the Final Response Brief.

Rule 240, SCACR, cited by Respondent, has nothing to do with the issue of when the Final Briefs are due. Rule 211, SCACR, also cited by Respondent, does not condition the obligation to file final briefs twenty (20) days after service of the Record on Appeal upon resolution of disputes about pages and lines to which Respondent never cites (or about any Record on Appeal dispute at all). Rather the mandate is simple:.

"Within twenty (20) days after the service of the Record on Appeal, each party shall serve a copy of his final brief(s) on every other party to the appeal, and file fifteen (15) copies of the final brief(s) with the clerk of the appellate court. ... The final brief(s) shall be identical to the brief(s) previously served under Rule 208, except for the following: ... The references in the initial brief shall be revised to indicate where the material appears in the Record on Appeal"

Respondent has not actually plead that any page / line reference in a document actually cited in the Initial Response Brief lacks a counterpart in the Record on Appeal thus there has not been any impediment to Respondent making a diligent effort to do what is expected of Respondent's Counsel. Appellant suggests that this entire matter has been raised by Respondent for improper purpose.

Appellant asks the Court of Appeals to deny the Motion to Extend, since no legitimate reason has been stated as to why Respondent has not made the page translation required, or at least why these putative "issues" were not raised and addressed long ago.


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Ralph P. Stroman, Special Referee

Case No. 2009-CP-26-3596
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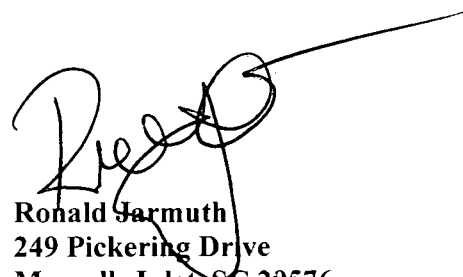
Ronald Jarmuth,Appellant,

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and K. A. Diehl & Associates, Respondents.

PROOF OF SERVICE

I certify that on August 3, 2013 I served the attached Appellant's Opposition to Respondent's Motion For Extension to File Final Brief on Respondents' common counsel McNair Law Firm by mailing same to said counsel via United States Priority prepaid mail addressed to Henrietta U. Golding; McNair Law Firm, P.A.; 2411 Oak Street; Suite 206; Myrtle Beach, SC 29577-3164



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August 3, 2013

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

Re: Appellant's Opposition to Respondents' two Motions (to Amend the Record and to Extend the Deadline to file Respondent's Final Brief)
Appeal 2013000714 Jarmuth v International Club HOA et al
2009-CP-26-3596 in the Court of Common Pleas, Horry County

Dear Madam Clerk:

Please file the attached Appellant's Opposition to Respondent's Motion to Amend the Record (on Appeal) with Exhibits and For Extension of Time to File Final Brief.

Six copies each plus one unbound each are provided.

The Proof of Service is attached to each pleading in opposition:

Thank you for your attention to this matter.

Sincerely,



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

REC'D

AUG 06 2013

SC Court of Appeals

Cf: Henrietta Golding, Attorney for Respondents