

RECEIVED

Sep 04 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
In The Circuit Court

G. D. Morgan, Jr., Circuit Court Judge

Appellate Case No. 2023-001129
Appellate Case No. 2023-001740

DANNY ROSE,

Respondent,

v.

ROBERT ROSE, GLORIA ROSE-RUCH,
MARY MARGARET DOLL ROSE, and
JOHN DOES 1-99,

of whom ROBERT ROSE, GLORIA ROSE-RUCH,
and MARY MARGARET DOLL ROSE are the

Appellants.

REPLY TO MOTION TO DISMISS

1. By its Order of July 3, 2024, this Court settled the items to be included in the Record on Appeal; that Order also required an Amended Initial Brief to accord with the settled Record on Appeal.
2. By e-mail of July 5, 2024, counsel for Appellants submitted the new listing for the Record on Appeal and stated:

My review of the Brief submitted showed no specific references to the matters stricken in the Brief text. As such I believe the original Initial Brief is sufficient. Again, if this is not acceptable, please advise.

3. A copy of the e-mail of July 5, 2024 is attached and incorporated.
4. Counsel received no response to the e-mail above.
5. By letter of August 15, 2024, counsel for Appellants was informed that no amended Brief had been received, and required a response within ten days. Again, no reference was made in that letter to counsel's e-mail of July 5th.
6. Counsel's office has been required to move to a new location, with the move beginning

on August 13th; preparation for the move had been under way for at least the week prior.

7. By inadvertence, counsel lost track of the time required by the letter of August 15th. Upon discovery, counsel responded by an e-mail of August 28th. That e-mail stated:

I understand your letter to require a new or amended Brief. As I attempted to explain in my last e-mail, I do not understand the the (*sic*) text of the Brief we have filed requires amendment to conform to the Order cutting out matter I listed. As such, I do not believe there is a need to file a new or amended Brief. Obviously, this is the Court's determination.

Please advise. If a Motion is necessary to resolve this question, also please advise.

8. A copy of the e-mail of August 28, 2024 is attached and incorporated.

9. On August 29, 2024, Counsel received the Respondent's Motion to Dismiss. This Motion is apparently based on the delay in response to the Court's letter of August 15th.

10. Counsel for Appellants submits that he has acted in good faith to the Court and that any small delay is not such as to mandate a dismissal of this appeal.

September 4, 2024

/s/ John Martin Foster
SC Bar No. 2086
Attorney for Appellants.
Post Office Box 106
Rock Hill, S.C. 29731-6106
803 324-8100
Attorney for Appellants

Other Counsel of Record:

William T. Young, III
141 Traction Street
Greenville, S.C. 29604
bill@billyounglawfirm.com
Attorney for Respondent

T. Hunt Reid
Howard, Howard, Francis & Reid, L.L.P.
P.O. Box 10383
Greenville, S.C. 29603
hunter@hhfr.com
Attorney for Respondent

Subject: Rose v. Rose 2022-CP-23-04451

From: John Martin Foster <jmfoster340@gmail.com>

Date: 7/5/24, 10:58

To: Court Of Appeals Filings <ctappfilings@sccourts.org>

CC: Bill Young <bill@younginjurylawyer.com>, Hunter Reid <hunter@hhfr.com>

BCC: rdrose13@msn.com, gruch8@gmail.com, mmdoll1@hotmail.com

Madam Clerk:

Pursuant to the Court's Order of July 3, 2024, I attach for filing our Amended Designation of Matter to be included in the Record on Appeal, together with our Certificate of Service on opposing counsel.

The form submitted retains the numbers of the stricken matter while the matter stricken is itself out; this is for the sake of clarity. If this is not acceptable, please advise.

The July 3d Order also requires an Amended Initial Brief. My review of the Brief submitted showed no specific references to the matters stricken in the Brief text. As such, I believe the original Initial Brief is sufficient. Again, if this is not acceptable, please advise.

Thank you, as always, for your help in these matters.

--

/Martin Foster

jmfoster340@gmail.com

The Guardian Building 223 East Main Street Suite 520 Rock Hill, SC 29730

P.O. Box 106 Rock Hill, SC 29731-6106

803 324-8100 803 324-8109: Fax

PRIVILEGED AND CONFIDENTIAL: This electronic message and any attachments are confidential property of the sender. The information is intended only for the use of the person to whom it was addressed. Any other interception, copying, accessing, or disclosure of this message is prohibited. The sender takes no responsibility for any unauthorized reliance on this message. If you have received this message in error, please immediately notify the sender and purge the message you received. Do not forward this message without permission.

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any US federal tax advice contained in this document is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code Section 6662(d) or (ii) promoting, marketing or recommending to another party any transaction or matter that is contained in this document.

—Attachments:

DesigRecApp2.pdf

61.9 KB

Subject: Re: Danny Rose v. Robert Rose- 2023-001129

From: "jmfoster340@gmail.com" <jmfoster340@gmail.com>

Date: 8/28/24, 14:16

To: "Evans-Pryor, Khee'Asia" <kpryor@sccourts.org>, "hunter@hhfr.com" <hunter@hhfr.com>, "bill@younginjurylawyer.com" <bill@younginjurylawyer.com>

CC: "sally@hhfr.com" <sally@hhfr.com>, "ensmith@gmail.com" <ensmith@gmail.com>

Ms. Evans-Pryor:

I apologize for delay in this response. My office was moved and I am still re-finishing the new place.

I understand your letter to require a new or amended Brief. As I attempted to explain in my last e-mail, I do not understand the the text of the Brief we have filed requires amendment to conform to the Order cutting out matter I listed. As such, I do not believe there is a need to file a new or amended Brief. Obviously, this is the Court's determination.

Please advise. If a Motion in necessary to resolve this question, also please advise.

On 8/15/24 14:15, Evans-Pryor, Khee'Asia wrote:

Dear Counsel,

Attached please find correspondence from the Court of Appeals.

Please do not respond to this email. Send all correspondance to ctappfilings@sccourts.org. **Any parties not included in this email will receive the attached correspondence via US Mail.**

Respectfully,

Khee'Asia Evans-Pryor

Appeals Specialist 1

South Carolina Court of Appeals

1220 Senate Street, Columbia, SC 29201

803-734-1890

E-filing: ctappfilings@sccourts.org

Website: www.sccourts.org

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

--

Martin Foster

[jmfoster340@gmail.com](mailto:jmfoster340@gmail.com)

The Guardian Building 223 East Main Street Suite 520 Rock Hill, SC 29730

P.O. Box 106 Rock Hill, SC 29731-6106

803 324-8100 803 324-8109: Fax

PRIVILEGED AND CONFIDENTIAL: This electronic message and any attachments are confidential property of the sender. The information is intended only for the use of the person to whom it was addressed. Any other interception, copying, accessing, or disclosure of this message is prohibited. The sender takes no responsibility for any unauthorized reliance on this message. If you have received this message in error, please immediately notify the sender and purge the message you received. Do not forward this message without permission.

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any US federal tax advice contained in this document is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code Section 6662(d) or (ii) promoting, marketing or recommending to another party any transaction or matter that is contained in this document.

**RECEIVED**

**Sep 04 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
In The Circuit Court

G. D. Morgan, Jr., Circuit Court Judge

Appellate Case No. 2023-001129  
Appellate Case No. 2023-001740

DANNY ROSE, Respondent,

v.

ROBERT ROSE, GLORIA ROSE-RUCH,  
MARY MARGARET DOLL ROSE, and  
JOHN DOES 1-99,  
of whom ROBERT ROSE, GLORIA ROSE-RUCH,  
and MARY MARGARET DOLL ROSE are the Appellants.

CERTIFICATE OF SERVICE

The undersigned, counsel for Appellants in the civil appeal above, hereby certifies that, on the date written below, he served copies of the following pleadings or documents in the above-captioned and numbered civil action:

Reply to Motion to Dismiss; and  
this Certificate of Service,

by service to the opposing lawyer's primary e-mail address listed in the Attorney Information System (AIS), as authorized by Section (b)(2) of the Order of the Supreme Court dealing with Electronic Filing and Service issued May 6, 2022.

William T. Young, III  
141 Traction Street  
Greenville, S.C. 29604  
bill@billyounglawfirm.com  
Attorney for Respondent

T. Hunt Reid  
Howard, Howard, Francis & Reid, L.L.P.  
P.O. Box 10383  
Greenville, S.C. 29603  
hunter@hhfr.com  
Attorney for Respondent

September 4, 2024

/s/ John Martin Foster  
SC Bar No. 2086  
Post Office Box 106  
Rock Hill, S.C. 29731-6106  
803 324-8100  
jmfoster340@gmail.com  
Attorney for Appellants