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March 4, 2025

VIA E-FILING - ctappfilings@sccourts.org

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

RECEIVED
Mar 04 2025
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:

I am writing pursuant to the Court of Appeal's order dated November 6, 2023 directing the parties to update the court every 30 days on the status of the remand order dated requiring the trial court to attempt to recreate the record.

Be advised, Respondent's counsel has emailed the Richland County Scheduling Clerk regarding the issues with rescheduling their Motion for Reconstruction of the Record before Judge Newman and the Clerk's response (see attached).

Please contact me with any questions at this time.

Sincerely,

/s/ T. JEFF GOODWYN, JR.

T. Jeff Goodwyn, Jr.

TJG:cnc

Enclosure

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

From: PAUL GUNTER <GUNTER.PAUL@richlandcountysc.gov>
Sent: Tuesday, March 4, 2025 1:47 PM
To: 'swilson@csvl.law'; VIRGINIA BELCHER
Cc: Charles Blackburn; 'cgback4@gmail.com'; jgoodwyn goodwynlaw.com; cchase goodwynlaw.com; 'Moran, Rosie'; 'Mackelcan, Douglas W.'; 'Rewt, Teri J.'
Subject: RE: Case No. 2019-CP-40-0919, Tadros v. Adesso, et al - Request for Hearing on Motion to Reconstruct the Record

Due to the lack of communication with the Clerk of Court's office and the fact that we typically do not schedule or would not have known to schedule a motion in a higher court case, Athena Borer will schedule this on the next available roster.

Paul J. Gunter
Richland County Clerk of Court
Civil Records Supervisor/Common Pleas Trial Court Coordinator
1701 Main Street
Columbia, SC 29201
Phone 803-576-1932
Fax 803-576-1785
gunter.paul@richlandcountysc.gov

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If you have received this communication in error or are not sure whether it is privileged, please immediately notify me by return email and destroy any copies, electronic, paper or otherwise, which you may have of this communication.

From: JEANETTE MCBRIDE <MCBRIDE.JEANETTE@richlandcountysc.gov>
Sent: Tuesday, March 4, 2025 12:19 PM
To: VIRGINIA BELCHER <BELCHER.VIRGINIA@richlandcountysc.gov>; PAUL GUNTER <GUNTER.PAUL@richlandcountysc.gov>
Subject: FW: Case No. 2019-CP-40-0919, Tadros v. Adesso, et al - Request for Hearing on Motion to Reconstruct the Record

Jeanette W. McBride
Richland County Clerk of Court

Richland County Judicial Center
1701 Main Street
Columbia, SC 29201

803-576-1947
mcbridej@rcgov.us

From: Wilson, Skyler C. <swilson@csvl.law>
Sent: Tuesday, March 4, 2025 12:04 PM
To: JEANETTE MCBRIDE <MCBRIDE.JEANETTE@richlandcountysc.gov>
Cc: Charles Blackburn <cblackburn@goodwynlaw.com>; cgback4@gmail.com; jgoodwyn@goodwynlaw.com; cchase@goodwynlaw.com; Moran, Rosie <rmoran@csvl.law>; Mackelcan, Douglas W. <dmackelcan@csvl.law>; Rewt, Teri J. <trewt@csvl.law>
Subject: Case No. 2019-CP-40-0919, Tadros v. Adesso, et al - Request for Hearing on Motion to Reconstruct the Record

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mrs. McBride,

My name is Skyler Wilson and I represent an HOA who is one of the named defendants in the above referenced lawsuit that originated in Richland County

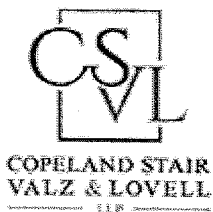
My clients won summary judgment and Plaintiff appealed. Based on some issues with the hearing transcript, the Court of Appeals remanded the case to the Richland County circuit court for reconstruction of the record. The parties have been trying to get a hearing to reconstruct the record for more than a year. Recently, the parties had a status conference before Judge Coble who advised to file a motion to reconstruct the record. As a result, we filed the attached motion in December 2024, which explains the procedural history of the case and attached the Court of Appeals order.

My staff followed up with the clerk's office and we are unsure how to proceed to get a hearing. The case "status" on the Richland County public index says "appeal" and the "disposition" says "Dismissed by Court- not Rule 40J." We suspect this may be preventing a hearing being scheduled. Is there anything the parties can do to get the hearing scheduled?

I appreciate any advice or assistance you or your office can provide.

Respectfully,

Skyler



Skyler C. Wilson

Partner

d: 843.266.8221 | f: 843.727.2995

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40 Calhoun Street, Suite 400, Charleston, SC 29401

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

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

Plaintiff,

vs.

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

Defendants.

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT
) CASE NO.: 2019-CP-40-00919
)
)

MOTION FOR RECONSTRUCTION OF THE RECORD

Defendants ADESSO Horizontal Property Regime and ADESSO Homeowners' Association (collectively "HOA") move this Court to reconstruct the appellate record pursuant to an Order of the Court of Appeals.

Introduction

This lawsuit involves Plaintiff's claims that HOA violated its Master Deed and City of Columbia zoning ordinances in allocating parking for his commercial units, and violated the Master Deed in assessing Plaintiff for costs, expenses, and other budget items for the maintenance and upkeep of common areas. After a hearing, the then-circuit court Judge Benjamin, granted HOA's motion for summary judgment. Plaintiff appealed and, upon receiving the transcript of the hearing, asked the Court of Appeals for a new summary judgment hearing because of errors in the transcript. The Court of Appeals declined Plaintiff's request, but remanded the matter to Judge Newman "for reconstruction of the record." **See Ex. 1 (11.6.23 Order)**. The HOA files this motion to request a hearing before the Chief Administrative Judge for the Fifth Judicial District to reconstruct the record.

Relevant Background

The Adesso is a mixed-use development comprised of 110 upscale residential condominium units, ground floor commercial units, and associated common and limited common elements. All units, common elements, and limited common elements are housed within one building located at 601 Main Street, Columbia, SC 29201. The Master Deed for Adesso established the Adesso Horizontal Property Regime and created the Association to, among other things, manage the Regime's affairs, and prescribe rules for the use of the Regime's General Common Elements.

Plaintiff purchased his Commercial Units at Adesso on December 5, 2014, becoming a member of the Association. After becoming an owner, Plaintiff took issue with how parking spaces were allocated to Commercial Units. Plaintiff also believed that he was not assessed costs appropriately under the Master Deed. As a result, Plaintiff filed suit against HOA and others on February 14, 2019.

After discovery, HOA moved for summary judgment, arguing that Plaintiff's claims were barred by the applicable statutes of limitation, the parking issue was moot, and Plaintiff was being assessed appropriately under the Master Deed. Plaintiff contested the motion for summary judgment. Judge DeAndrea G. Benjamin held a virtual hearing on the motion on January 7, 2021. Judge Benjamin granted HOA summary judgment on September 21, 2021. Plaintiff moved to reconsider, which was denied on September 19, 2022.

Appeal

Plaintiff filed his Notice of Appeal on October 11, 2022. Plaintiff ordered the transcript of the summary judgment hearing, but ran into issues acquiring it. Plaintiff eventually acquired the transcript, which contained numerous instances of "inaudible" or other notes that reflected the court reporter's inability to transcribe arguments from both counsel. Accordingly, Plaintiff

moved the Court of Appeals to remand the case for a new hearing on summary judgment on October 11, 2023. HOA contested the motion to remand.

The Court of Appeals declined to remand for a new summary judgment hearing. On November 6, 2023, however, the Court of Appeals held the appeal in abeyance and remanded it “to the circuit court for reconstruction of the record.” **Ex. 1.** The Order further stated:

Counsel for [Plaintiff] 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 this order. Judge Newman shall schedule such hearings as she deems appropriate. If Judge Newman determines reconstruction is not possible, she shall immediately notify this court and all parties.

Ex. 1.

The parties appeared before Judge Coble on December 20, 2024 for a status conference, and discussed procedure for getting a hearing to reconstruct the record. As a result of the hearing, it was decided that counsel for HOA would file a motion to reconstruct the record, coordinate with the Court to set a hearing, and the parties would be permitted to submit briefing on the issue of reconstruction.

HOA files this motion to reconstruct the record to begin the process. The parties will work together to discuss timing for briefing prior to a hearing.

This 20th day of December, 2024.

COPELAND, STAIR, VALZ & LOVELL, LLP

By: s/Skyler C. Wilson
DOUGLAS W. MACKELCAN
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SKYLER C. WILSON
State Bar No.: 102865

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*Attorneys for Respondents Adesso Horizontal
Property Regime, and Adesso Homeowners’
Association*

The South Carolina Court of Appeals

Emad Tadros, M.D. 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 are the
Respondents.

Appellate Case No. 2022-001434

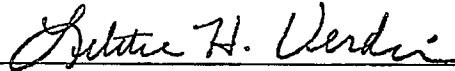
ORDER

Appellant filed a notice of appeal from an order granting Respondents' motion for summary judgment. Appellant has now moved for a new hearing on the motion for summary judgment because the sixty-nine-page transcript contains fifty-four instances of "inaudible" or "noise interference," making meaningful appellate review impossible. Respondents filed a return, opposing the motion. We deny Appellant's motion to remand for a new hearing, but we hold the appeal in abeyance and remand this appeal to the circuit court for reconstruction of the record.

Counsel for 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 this order. Judge Newman shall schedule such hearings as she deems appropriate. If Judge Newman determines reconstruction is not possible, she shall immediately notify this court and all parties. If the record is

reconstructed, Appellant's counsel shall immediately notify this court so that the appropriate appellate timelines can be set.

Appellant's counsel shall provide an update to the clerk of this court no later than 30 days from the date of this order, and every 30 days thereafter until Judge Newman resolves this matter, or the appeal will be dismissed.



FOR THE COURT

Columbia, South Carolina

cc:

Thomas Jefferson Goodwyn, Jr., Esquire
Charles Grant Blackburn, Esquire
Douglas Walker MacKelcan, III, Esquire
Skyler Cole Wilson, Esquire

FILED
Nov 06 2023