

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

COUNTY OF HORRY
CIRCUIT COURT JUDGE: B. ALEX HYMAN

APPELLATE CASE NO: 2025-000211
CIVIL CASE NO: 2025-CP-26-04206

WARETRUST, APPELLANT

RECEIVED

V.

JUL 14 2025

A AND K PROPERTIES OF SC, INC., RESPONDENT

SC Court of Appeals

**RESPONDENT'S MOTION TO LIFT THE STAY OF JUDGMENT AND
MOTION TO DISMISS APPEAL**

The Respondent, A and K Properties of SC, Inc., by and through its undersigned attorneys, respectfully moves this Court for an order dismissing the appeal in this matter, or in the alternative, lifting the stay of judgment.

On January 6, 2025, a Judgment of Execution was issued against the Appellant by the Horry County Magistrate's Court. Appellant appealed that Judgment to the Horry County Court of Common Pleas and an Order dismissing their appeal due to Non-Compliance with the Magistrate's Bond Order was issued on January 29, 2025. Appellants then appealed the decision of the Circuit Court to the Court of Appeals. On March 10, 2025, the Court of Appeals issued an order vacated the Magistrate Court's order of non-compliance and related bond and directed the Circuit Court to conduct an expedited hearing on Appellant's motion to stay and determination of any appeal bond. The Court of Appeals further ruled in its order that Appellant shall provide the Court of Appeals with status updates every thirty days and that Appellant shall provide the Court of Appeals with a copy of the Circuit Court's order ruling on the motion to stay and request for an appeal bond within ten days of receiving notice of the order. The Court of Appeals ruled in its order that failure to do so would result in dismissal of the appeal. On March 17, 2025, a bond hearing was held regarding this appellate matter wherein the Appellant, who was a tenant of

Respondent, was ordered to post bond in the amount of \$11,794.20 to stay the execution of the Judgment of the Magistrate Court. The Appellant has failed to comply with the March 10, 2025, order of the Court of Appeals, by not providing status updates to the Court of Appeals or a copy of the Circuit Court's March 17, 2025, order to the Court of Appeals, and therefore the appeal should be denied. In the alternative, Appellant has failed to post the appropriate bond in this matter, and has additionally failed to pay monthly rent as ordered in the amount of \$2,100.00, which was due on April 1, 2025.¹ Therefore, Respondent moves this Court to dismiss the appeal, or, in the alternative, to dissolve the stay of execution due to Appellant's non-compliance with South Carolina Code Section 27-40-800, and allow Respondent to proceed with execution of the Judgment.

BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.

s/ Howell V. Bellamy, III

Howell V. Bellamy, III (SC Bar # 66575)

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1000 29th Ave. N.

Myrtle Beach, SC 29577

843-448-2400 Phone

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Attorney for Defendant/Respondent

Myrtle Beach, South Carolina
July 11, 2025

¹ See Affidavit of Lacey Haynes, attached hereto and incorporated herein as Exhibit A.

CERTIFICATE OF SERVICE

I hereby certify that on this day I have served counsel for the opposing party(s) with a copy of the within and foregoing pleading (**RESPONDENT'S MOTION TO LIFT THE STAY OF JUDGMENT AND MOTION TO DISMISS APPEAL**) by U.S. Mail properly addressed to the following, to ensure proper delivery to the following:

Jameerah Ware
514 Battey Drive
Myrtle Beach, SC 29588
Plaintiff/Appellant

Amira Ware
514 Battey Drive
Myrtle Beach, SC 29588
Plaintiff/Appellant

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JUL 14 2025

SC Court of Appeals

Cheryl Vaughn
514 Battey Drive
Myrtle Beach, SC 29588
Plaintiff/Appellant

This 11 day of July, 2025.

/s/ Tracy B. Ales, Paralegal
Bellamy, Rutenberg, Copeland
Epps, Gravely & Bowers, P.A.
1820 29th Avenue, North
Myrtle Beach, SC 29577
(843)-448-2400 Telephone
(843)-448-3022 Facsimile

EXHIBIT A

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

COUNTY OF HORRY

APPELLATE CASE NO: 2025-000211

CIRCUIT COURT JUDGE: B. ALEX HYMAN

CIVIL CASE NO: 2025-CP-26-04206

WARETRUST, APPELLANT

V.

A AND K PROPERTIES OF SC, INC., RESPONDENT

AFFIDAVIT OF LACEY HAYNES FOR NON-COMPLIANCE

PERSONALLY APPEARED BEFORE ME, LACEY HAYNES who, being first duly sworn, deposes and states under oath that:

1. My name is Lacey Haynes, I am over the age of eighteen (18) years and competent to make this Affidavit based on my personal knowledge, experience and training. I have worked with the Hannon Group for over 3 years and am the owner representative for A&K Properties of SC, Inc.

2. Waretrust entered into a lease agreement for 514 Battey Dr Myrtle Beach, SC 29588 with our management company (Hannon Group) on September 1, 2024, for a 12-month lease with the rent amount being \$2100.00 per month. We received a pro-rated rent amount for September 2024 of \$1,820 and a pro-rated rent amount for October 2024 of \$1800. On October 31, 2024 we began receiving paperwork that the tenant claimed to be legal tender from TD Bank. We confirmed with TD Bank that this was not legal tender and requested the tenant provide legal tender or payment through our tenant portal. Payment was never received in November 2024 and an action for eviction was filed with the Horry County Magistrates Office on December 10, 2024. On January 6, 2025, Judge Clayton ruled that the tenant had 5 days to voluntarily vacate (giving the tenant until January 11, 2025 at 5pm). On January 13, 2025, I contacted the Horry County Sheriff's Office to schedule a set-out as the tenant was still in the unit.

3. On January 15, 2025, I received a call from the Horry County Magistrates Office that the tenant had filed an appeal, and we would have a bond hearing on January 21, 2025 at 8:30am. The tenant did not appear for the bond hearing and Judge Clayton said they would notify the Circuit Court that the tenant did not appear for the hearing and therefore their appeal would be dismissed. I contacted the Horry County Sheriff's office on February 7, 2025, to schedule the set-out as tenant was still in unit. On February 10, 2025, we received notice of appeal from the South Carolina Court of Appeals.

4. On March 19, 2025, pursuant to Section 27-40-800(f)(1) of the South Carolina Code of Laws, the Circuit Court held a Bond Hearing and Judge Seals ruled that the tenant needed to pay \$11,794.20 within 5 days and the rent amount of \$2,100 on the 1st of each month until the appeal is resolved. We filed an order of non-compliance with the Circuit Court on March 25, 2025 due to the tenant not paying the set bond amount.

5. To date, Lacey Haynes, the Respondent/Landlord in this civil action does make the following claims:

- a. Tenant has failed to post bond in the amount of \$11,794.20 to stay the Execution;
- b. Tenant has failed to pay monthly rent as ordered in the amount \$2,100.00, due on the 1st day each month beginning on April 1, 2025; and
- c. Tenant currently owes an outstanding balance of \$21,259.20.

6. Based upon the foregoing, the Respondent respectfully requests the South Carolina Court of Appeals to dismiss the Appellant's Appeal due to its non-compliance with S.C. Code Ann. 27-40-800(f)(1) and allow Respondent to proceed with execution of the Judgment.

I affirm that the foregoing is true to the best of my personal knowledge or on information and belief. I understand that the penalty for intentionally providing false information involves prosecution for perjury and the penalties associated with doing the same.

FURTHER AFFIANT SAYETH NAUGHT.

Lacey Haynes
Lacey Haynes

Sworn to and subscribed before me on this
11 day of July, 2025

Maureen C Butwin
Notary Public

My Commission Expires: 9/20/26



105243

Ales, Tracy

From: Ales, Tracy
Sent: Friday, July 11, 2025 12:31 PM
To: Court Of Appeals Filings
Cc: Bellamy III, Howell V.
Subject: WareTrust v. A and K Properties of SC, Inc. - Respondent's Motion to Lift the Stay of Judgment and Motion to Dismiss Appeal with Exhibit: Appellate Case No: 2025-000211
Attachments: Respondents Motion to lift stay and motion to dismiss appeal.pdf; \$50.00 check.pdf

Good afternoon,

I spoke to a couple of individuals who said I am to email our documents pertaining to this matter and I can mail the check separately (which is going out today). I was instructed the fee is \$50.00, which I am attaching a copy of said check which is going in the mail today to your facility.

I also spoke to three people trying to make sure our office has the "correct caption" for the motion. I was told a letter would be sent if it was not accurate. I have included all in formation on our documents, together with a Certificate of Service.

Please let us know if you have any questions or we need to do anything further.

Thank you all for all your assistance.

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SC Court of Appeals



Tracy Ales, Paralegal

Bellamy, Rutenberg, Copeland, Epps, Gravely & Bowers, P.A.

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Court of Appeals
1220 Senate Street
Columbia, SC 29201