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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
The Honorable Bentley D. Price
Circuit Court Judge

Appellate Case No. 2025-001142
Circuit Court Case No. 2019-CP-07-02279

Wilmington Savings Fund Society FSB, not in its individual capacity, but solely as owner trustee for CSMC 2018-RPL6 Trust,

Respondent,

v.

Rex A. Field, Tracy L. Field, Dulamo Estates Homeowners' Association, Inc.,

Defendants,

Of whom Rex A. Field and Tracy Field are the

Appellants.

OPPOSITION TO APPELLANTS' MOTION TO REMAND TO THE CIRCUIT COURT FOR SETTLEMENT OF THE RECORD, RECONSTRUCTION OF TRANSCRIPT OR NEW HEARINGS, AND RULING ON PENDING MOTION FOR RECONSIDERATION OF DENIAL OF RECUSAL

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More than six months after filing their Notice of Appeal, Defendant-Appellants Rex A. Field and Tracy Field (collectively "Appellants") now ask this Court to remand the case to the circuit court for an array of extraordinary relief – including "reconstruction of transcript or new hearings" – based on complaints about the quality of the transcript and the existence of allegedly "pending" matters in the trial court. However, Appellants have facially failed to satisfy their burden to demonstrate the necessity of the extraordinary relief sought in Appellants' Motion to Remand to the Circuit Court for Settlement of the Record, Reconstruction of Transcript or New Hearings, and Ruling on Pending Motion for Reconsideration of Denial of Recusal (the "Motion"). Instead, Appellants' latest filing appears to be yet another dilatory tactic in a foreclosure case that has already lasted more than four years. Accordingly, the Motion should be denied.

In substance, Appellants complain that the digital recording system produced a transcript containing "inaudible" portions and assert that (in their view) the transcript contains omissions or inaccuracies. Appellants also contend they have been unable to obtain the "raw audio" recording and ask this Court to remand for sweeping relief, including "new hearings." Whatever its label, Appellants' requested remedy would pause the appeal, re-open proceedings below, and prolong final resolution – without the necessary predicate showing that the current record is inadequate for appellate review or that any missing portion is material and incapable of reconstruction. The Motion should be denied.

I. Appellants have failed to satisfy their burden to furnish a sufficient record on appeal and to demonstrate a specific prejudice flowing from gaps in the verbatim transcript.

"The burden is on the appellant to furnish a sufficient record on appeal from which this court can make an intelligent review." *Taylor v. Taylor*, 294 S.C. 296, 299, 363 S.E.2d 909, 911 (Ct. App. 1987). Consistent with that principle, appellate review is "limited to [the] Record on Appeal," and (except in narrow circumstances) "the appellate court will not consider any fact

which does not appear in the Record on Appeal." S.C. R. App. Prac. 210(h). "In South Carolina, as in a majority of jurisdictions, 'the inability to prepare a complete verbatim transcript, in and of itself, does not necessarily present a sufficient ground for reversal'" or remand. *Smalls v. State*, No. 2022-001151, 2025 WL 2529019, at *2 (S.C. Ct. App. Sept. 3, 2025) (quoting *State v. Ladson*, 373 S.C. 320, 324, 644 S.E.2d 271, 273 (Ct. App. 2007)). As with "[m]ost jurisdictions," South Carolina "require[s] an appellant to demonstrate *specific* prejudice flowing from an incomplete or reconstructed record." *Ladson* at 324, 644 S.E.2d at 273 (emphasis added); *see also Smalls* at *2 (explaining appellant seeking reversal and remand "must identify a *specific* appellate claim that this court would be unable to review effectively using the reconstructed record" (emphasis added)).

Appellants' Motion flips these principles on their head. Instead of attempting to demonstrate a material deficiency in the transcript and identifying any specific prejudice flowing from this allegedly incomplete record, Appellants seek a broad remand and new hearings based on the notion that some portions of the transcript may be incomplete. In support of this Motion, Appellants have not provided any copy of the relevant transcript for assessment by Respondent or the Court, despite the fact that Appellants state in their affidavit that they possess three separate transcriptions of the January 2025 Hearing. Instead, Appellants rely entirely on (1) an affidavit from Appellants themselves speculating as to the causes of potential audio record quality issues, and (2) an affidavit from Kevin Dehlinger, Director of Operations for Legal Eagle, that there are "22 inaudible notions . . . within the 54-page transcript."

In the absence of a copy of a transcript of the January 2025 Hearing, none of the arguments in the Motion or the materials attached thereto attempts to address the manner in which the transcript is allegedly incomplete, such as an explanation of what portions of the transcript are incomplete or the manner in which those portions are in complete. The only reference to anything

about the specific gaps in the transcript is Mr. Dehlinger's statement that there is one "inaudible" part approximately every two-and-a-half pages on average. The Motion and its exhibits avoid any discussion of the content, context, implications, and significance of these "inaudible" parts instead relying on Appellants' conclusory assertions that they "cannot identify or brief the issues on appeal" for an appeal Appellants themselves brought. As a result, it remains unclear whether all "22 inaudible" parts in the transcript occurred during non-substantive portions of the January 2025 Hearing, such as party introductions.

Therefore, Appellants' request for remand and reconstruction of the record should be denied because Appellants have not attempted to identify a specific appellate claim that cannot be effectively reviewed using the reconstructed or incomplete record, and unsupported assertions that the transcript is inadequate is not sufficient to support a remand and reconstruction.

II. Even if the transcript had been lost or unavailable, South Carolina courts require a focused reconstruction effort; new hearings are extraordinary and not warranted here in the absence of a specific showing of necessity.

Even if Appellants had attempted to show the specific prejudice flowing from an allegedly incomplete transcript, remand for new hearings would not be the appropriate remedy. South Carolina courts recognize a limited tool: where a transcript is completely lost or destroyed, an appellate court may allow for reconstruction of the record. *See, e.g.*, *Dolive v. J.E.E. Devs., Inc.*, 308 S.C. 380, 383, 418 S.E.2d 319, 321 (Ct. App. 1992) (approving record reconstruction methods, emphasizing practical means to settle the record, and affirming denial of remand). Rather than remand, courts require parties to attempt reconstruction through stipulations, affidavits, and trial-court settlement of what occurred rather than ordering fresh evidentiary proceedings. *See, e.g.*, *id.* at 381–84, 418 S.E.2d at 321.

Appellants cite no authority supporting the proposition that routine complaints about transcript quality justify "new hearings" in the trial court while an appeal is pending. Indeed, South Carolina caselaw points plainly in the opposite direction: "'the inability to prepare a complete verbatim transcript, in and of itself, does not necessarily present a sufficient ground for reversal'" or remand. *Ladson* at 324, 644 S.E.2d at 273.

III. Appellants' request for a remand so the trial court may rule on purportedly "pending" motions should be denied.

Appellants also request a remand for the circuit court to rule on a "pending motion for reconsideration of denial of recusal." Whatever the status of any post-order filings below, the appropriate path is not a generalized remand order that re-opens the case and invites additional hearings. As this Court's rules make clear, appellate review is limited to the Record on Appeal, and supplementation is addressed through Rule 212's targeted process – not by restarting proceedings. S.C. R. App. Prac. 210, 212. If Appellants contend that a specific post-order motion affects appellate jurisdiction or the proper contents of the record, they must make a specific, rule-grounded showing for the limited relief necessary. Appellants have not done so here.

CONCLUSION

For the reasons described herein, the Court should deny the Motion.

Respectfully submitted this the 26th day of January 2026.

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Wilmington Savings Fund Society, FSB, not in its individual capacity, but solely as owner trustee for CSMC 2018-RPL6 Trust, and CSMC 2018-RPL6 Trust, Respondents,

v.

Rex A. Field and Tracy L. Field, Appellants

v.

Federal National Mortgage Association (Fannie Mae), Wilmington Savings Fund Society, FSB (in its individual capacity), Christiana Trust Company of Delaware, DLJ, Mortgage Capital, Inc., and Unknown Defendants 1-10, Third Party Defendants,

of which Federal National Mortgage Association (Fannie Mae), Wilmington Savings Fund Society, FSB (in its individual capacity), Christiana Trust Company of Delaware, and DLJ Mortgage Capital, Inc., are the Respondents.

PROOF OF SERVICE

I hereby certify that a copy of the foregoing **OPPOSITION TO APPELLANTS' MOTION TO REMAND TO THE CIRCUIT COURT FOR SETTLEMENT OF THE RECORD, RECONSTRUCTION OF TRANSCRIPT OR NEW HEARINGS, AND RULING ON PENDING MOTION FOR RECONSIDERATION OF DENIAL OF RECUSAL** was sent via e-mail and via First Class Mail addressed as follows:

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This the 26th day of January 2026.

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