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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

APPEAL FROM BEREKLEY COUNTY
COURT OF COMMON PLEAS
THE HONORABLE JENNIFER B. McCOY
CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2024-002051
CIVIL ACTION NO. 2019-CP-08-00092

The Oaks at Riverside South Property Owners Association, Inc.; Colette Alderson;
Leland Atkins Trust; Bette Atkins Trust; Michael Dorton; Emily Dorton; James
VanCampen; Celia VanCampen; Janet Fiorenza; Richard Labaudiniere; Lydie
Labaudiniere; Alley Oak, LLC; Lesene Hudson; and Asbury Hudson,

PLAINTIFFS,

versus

DI Associates, LLC; Carriage Hill Associates of Charleston, LLC; Charleston Landmark
Builders, LLC; Lesco Restorations, Inc.; Mike Phillips a/k/a Michael A. Phillips d/b/a
Phillips Masonry Contractors, Inc. a/k/a Mike Phillips Masonry; Benchmark Surveying
and Construction of Charleston, LLC; SKA Consulting Engineers, Inc.; D&D Home
Improvements, LLC; Coleman Floor Company, Inc.; Wards Waterproofing, Inc.; and
John Doe Contractors and Subcontractors 10-20,

DEFENDANTS,

Of which The Oaks at Riverside Property Owners Association, Inc., is the

APPELLANT,

and

SKA Consulting Engineers, Inc., is the

RESPONDENT.

**REPLY TO RETURN TO
MOTION TO COMPEL APPELLANT TO ORDER TRIAL TRANSCRIPT
AND TO STAY BRIEFING DEADLINES**

Respondent SKA Consulting Engineers, Inc. understands the circumstances surrounding the trial transcript are less than ideal. Respondent also acknowledges that Appellant initially ordered the entire trial transcript pursuant to Rule 207(a)(1), SCACR. Appellant, however, unilaterally rescinded its order of the entire proceedings below and only ordered days one and two of the trial, as well as the charges to the jury and the pronouncement of the verdict, after learning that the transcript would contain deficiencies. That the transcript will contain certain deficiencies, through no fault of either party, does not excuse Appellant of its duty to order a transcript of the entire proceedings below to the extent available.

Appellant also contends that the transcript is not necessary to decide this appeal. The issue is whether the circuit court correctly granted Respondent's motion for set-off. That involves a determination of whether "the settlement funds [were] paid to compensate the same plaintiff on a claim for the same injury." Palmetto Pointe at Peas Island Condo. Prop. Owners Ass'n, Inc. v. Island Pointe, LLC, 445 S.C. 543, 549, 915 S.E.2d 501, 505 (2025). Depending upon Appellant's arguments in its appellate briefing, Respondent may need to reference testimony presented at trial to the jury as to the types of injuries and amounts of damages sought by Appellant in this construction defect case to compare to injuries and damages for which Appellant settled with other defendants. This includes testimony from experts for Appellant and Respondent as to the nature of the damages and the amount of repair costs. This is not irrelevant testimony, but testimony potentially bearing upon the issue on appeal and testimony that Respondent's counsel will need to review and consider in formulating its responsive appellate argument.

In addition, Appellant contends the trial transcript is not necessary because the trial judge did not reference the testimony in her order granting the motion for set-off. The trial judge nevertheless “had the advantage of seeing and evaluating what was and was not presented to the jury,” see id. at 552, 915 S.E.2d at 506, and furthermore, Respondent may raise “any additional reasons the appellate court should affirm the lower court's ruling, regardless of whether those reasons have been presented to or ruled on by the lower court.” I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 419, 526 S.E.2d 716, 723 (2000). The appellate court “may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal.” Rule 220(c), SCACR. Of course, to appear in the Record, the transcript must be obtained.

Respondent also understands that it should not designate irrelevant material in the Record on Appeal. But to determine what is relevant and not relevant, Respondent's counsel needs to consider the trial testimony in light of the arguments Appellant raises in its appellate briefing.

Respondent is agreeable to not requiring Appellant to obtain any testimony of the individual homeowners as the damages awarded to such homeowners are not on appeal. Respondent requests that the remainder of the transcript, to the extent available, be obtained by Appellant and that Appellant bear the cost of obtaining the original transcript as required by Rule 207(a)(1), SCACR.

[signature on following page]

Respectfully submitted,

/s/ Carmen V. Ganjehsani

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Attorneys For Respondent
SKA Consulting Engineers, Inc.

October 5, 2026.

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CERTIFICATE OF SERVICE

I, the undersigned, attorney for Respondent, SKA Consulting Engineers, Inc., do hereby certify that I have this date served the foregoing REPLY TO RETURN TO MOTION TO COMPEL APPELLANT TO ORDER TRIAL TRANSCRIPT AND TO STAY BRIEFING DEADLINES, dated October 5, 2026, by personally serving the same pursuant to Section (d)(1) of the Supreme Court's Amended Order dated April 24, 2024, on the following counsel of record using the primary email addresses listed in the Attorney Information System (if applicable):

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A copy of the sent email is enclosed with this Certificate of Service.

/s Carmen V. Ganjehsani
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Date: October 5, 2026.

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Subject: R2024-002051 The Oaks at Riverside v. DI Associates
Date: Monday, October 5, 2026 1:42:00 PM
Attachments: [2024-002051 The Oaks at Riverside v. SKA \(Reply to Rtn to Mtn to Compel\) \(4354895\).pdf](#)

Please find served upon you the Reply to the Return to the Motion to Compel Appellant to Order Trial Transcript and to Stay Briefing Deadlines on behalf of Respondent SKA Consulting Engineers, Inc.

Thank you,
Carmen Ganjehsani

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