THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable R. Markley Dennis, Jr., Circuit Court Judge

Case No.: 2010-CP-10-9158

APPELLATE CASE No.: 2015-000111

Johnson Koola,.....Appellant,

v.

Cambridge Two, LLC, Albert V. Estee, Individually, Cambridge Lakes, LP, Stephen R. Heape, Individually and as General Partner of Cambridge Lakes LP, Cambridge Lakes Apartment Homes, a/k/a Cambridge Lakes Apartments, LP, a/k/a Cambridge Lakes Apartment Homes, LP, Classic Properties of Charleston, Inc., Cambridge Contracting, LP, Trademark Properties, Inc., Carolina One Charleston Home Team Properties, LLC, Charleston Home Team, LLC, Carolina One, and William E. Jenkinson, IV, individually,

Of Whom Trademark Properties, Inc., and Carolina One Real Estate are the .....Respondents.

APPELLANT'S INITIAL BRIEF

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Plaintiff pro se

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STATEMENT OF THE CASE

This is an appeal from the Trial Court's Order granting Summary Judgment to respondent Trademark Properties, Inc., ("Trademark"), (R. # 1, November 2014 Order granting Summary Judgment to Trademark) and respondent Carolina One Real Estate, ("Carolina One"), (R. # 2, November 2014 Order granting Summary Judgment to Carolina One), affirmed by denial of Motion for Reconsideration, (R. # 3, December 1, 2014 Order and R. # 4, December 18, 2014 Order), which dismissed the claims of appellant Johnson Koola ("Koola" or appellant) in the case at bar against both respondents. On January 9, 2015, Koola filed Notice of Appeal (R. # 5, Notice of Appeal).

In the case at bar filed in November 2010, Koola brought claims against respondents alleging that they had violated provisions of the South Carolina Horizontal Property Act, S.C. Code Ann. §§ 27-31-10, *et seq.*, ("SCHPA") and the South Carolina Unfair Trade Practices Act, S.C. Code Ann. §§ 39-5-10, *et seq.*, ("SCUPTA") in the sale of a *condominium converted from apartments* to Koola. Koola has also alleged claims against respondents for Breach of Contract/Warranty, Negligence, Fraud, and Negligent Misrepresentation (Negligence per se).

Koola has alleged that the respondents failed in their duty of care to Koola for failure to provide/convey the "Disclosure of the physical condition of the building" report to Koola mandated by SCHPA, S.C. Code Ann. § 27-31-430 ("HPA § 27-31-430-mandated Disclosure report"). Koola entered into a Buyer Representation Agreement and Consent to Dual Agency agreement with Carolina One (Agent) to represent Koola (Principal/Buyer Client) in the acquisition of real property, which established fiduciary duty on the part of Carolina One to Koola. Carolina One is liable to Koola for all the torts that he alleged in his Complaint. Koola also represented to the Court that Trademark is liable to Koola for all the torts that he alleged in his Complaint because it is a joint tortfeasor with other defendants in the case, even though it did not sell a Condominium directly to Koola.

During the October 22, 2014 hearing of the Motion for Summary Judgment, Trademark asserted that it did not sell a condominium directly to Koola, and therefore is not liable to Koola for any of Koola's claims. Trademark did not state a position whether it is a joint tortfeasor. Koola responded to the Court that Trademark is a joint tortfeasor with other co-defendants for violation of SCHPA and is therefore liable to Koola. Immediately, Trial Judge told Koola that he does not accept Koola's

argument that Trademark is a joint tortfeasor. Trial Judge refused to hear Koola's position that Trademark is a joint tortfeasor based on various authorities from previous Supreme Court decisions, advised Koola that his ruling from the Bench on Joint Tortfeasor stands, Koola could appeal the Trial Judge's decision and get his Decision reversed, and thereafter granted Summary Judgment to Trademark without adjudicating on Koola's other claims. In effect, Trial Judge promulgated Trial Court's own "rules governing practice and procedure" and overruled the Supreme Court on its authorities on joint tortfeasor, stare decicis and the Doctrine of the Law of the Case.

During its Motion hearing on October 22, Carolina One, Koola's agent and who owes fiduciary duty to Koola, argued that it has no duty to provide the HPA § 27-31-430-mandated Disclosure report to Koola, and that duty rests with the developers/sellers. Carolina One did not state a position whether it owes any fiduciary duty to Koola. In reply, Koola represented to the Court that when a real estate licensee/broker sells the converted condominiums on behalf of the developers/sellers under exclusive listing agreement as the sellers' agent, and when the buyer shall not del directly with propsective buyers under a stipulation in listing agreement, the agent has the duty to convey the disclosure report to buyer. S.C. Code Ann. §§ 27-50-50(C), 27-50-70, 40-57-30(A), 40-57-137(A). The trial Judge did not accept Koola's argument and granted Summary Judgment to Carolina One without adjudicating on Koola's other claims.

Koola filed timely Motion for Reconsideration of the Trial Judge's Order granting Summary Judgment to the respondents. (R. # 6, 7 Motion for

Reconsideration, Nov. 12, 2014 and Dec. 2, 2014). The Trial Judge denied both motions. (R. # 3, 4). On January 9, 2015, Koola filed Notice of Appeal. (R. # 5).

STATEMENT OF FACTS AND PROCEDURAL HISTORY

I. Establishment and Marketing of Cambridge Lakes Condominiums

Cambridge Lakes, LP, a named defendant in the case at bar, built Cambridge Lakes Apartments around the time period 1999-2000 and operated as rental apartments ("Apartments"). The two defendants in the case at bar, Stephen Heap and Albert Estee, were the general partner, and one of the limited partners of Cambridge Lakes, LP, respectively. In 2002 Albert Estee established Cambridge Two, LLC, and they (collectively "developers/sellers") offered to buy out the Apartments from Cambridge Lakes, LP, with the aim of converting them to condominiums ("condo conversion") and selling them to the public.

On August 9, 2002, developer/sellers hired Trademark as an exclusive sales agent under Exclusive Right to Sell Listing Agreement for the period from August 9, 2002 to August 31, 2004 for the marketing of the converted Condominiums to the public. (R. # 8, Listing agreement). They established Cambridge Lakes Horizontal Property Regime on February 24, 2003 through the recordation of the Master Deed. (R. # 9, Master Deed, p 1).

Albert Estee stated in an affidavit filed with the Court that the developers/sellers hired Trademark: (i) To convert all the Apartments into Condominiums because of Trademark's proven prior expertise in the conversion and marketing of converted Condominiums; (ii) To market all the converted Condominiums to the public; and (iii) To convey statutorily required Disclosure information as mandated by S.C. Code Ann. § 27-31-430 ("HPA § 27-31-430") to

prospective purchasers of the Condominiums; (R. # 10, Albert Estee, Affidavit, # 11, Deposition of Albert Estee) Trademark affirmed that it has expertise in condo conversion and marketing of the converted condominiums, and converted all the Apartments into Condominiums in Cambridge Lakes. (R. # 12, Trademark Letter, # 13, Deposition of Trademark Owner R. Davis)

The developers/sellers sent a letter entitled "Notice of Condominium Conversion and Offer to Purchase" to the tenants in possession of the Apartments which stated that they will be provided with a copy of the HPA § 27-31-430-mandated Disclosure report before they buy the units. The tenants in possession were advised to contact Trademark for assistance in making the offer and to buy the condominiums. (R. # 14, Notice of Condominium Conversion). *This confirms that Defendant Trademark had actual and constructive knowledge about the mandate of* HPA § 27-31-430 *and had the duty of care to provide the* HPA § 27-31-430-mandated Disclosure report *to prospective buyers of the condominiums.*

In June 2003, developers/sellers terminated Trademark's services as the exclusive real estate agent stating, inter alia, that: (i) Trademark's services are terminated for its nonperformance; and (ii) Trademark failed to deliver statutorily required disclosure statements (HPA § 27-31-430-mandated Disclosure report) to the Condominium buyers. *Immediately thereafter,* developers/sellers *hired* Carolina One as the exclusive real estate selling agent to complete the marketing of the Condominiums.

II. Koola's Purchase of a Cambridge Lakes Condominium and Subsequent Termination of Koola's Ownership of His Condominium

In January 2004, Koola: (i) Entered into a Buyer Representation Agreement (R. # 15, Buyer Representation Agreement) with Carolina One (Agent) to represent

Koola [Principal/Buyer Client] in the acquisition of real property as an Exclusive Buyer's Agent; and (ii) Signed a Consent to Dual Agency agreement with Carolina One, (R. # 16, Consent to Dual Agency). These agreements established fiduciary duty on the part of Carolina One to Koola. The parties signed a contract to purchase a Condominium from developers/sellers.

Carolina One provided Koola with a copy of the State of South Carolina Residential Property Condition Disclosure Statement under S.C. Code Ann. § 27-50-1, which contained a brief statement: "Condo Conversion – Still Rentals on Property" (R. # 17, Disclosure statement). Carolina One also provided Koola with a copy of the Master Deed for Cambridge Lakes Horizontal Property Regime, which stated that the Cambridge Lakes Horizontal Property Regime (the "Condominium") was established according to the provisions of HPA (R. # 9). These factual statements would establish that Carolina One had actual and constructive knowledge that the condominium under transaction is/was a "condo conversion". Koola's agent, Carolina One: (i) Did not alert Koola that the sale of the converted condominium has to comply with the provisions of HPA and more specifically to the provisions of HPA § 27-31-430, "Disclosure of the Physical Condition of the Buildings; and (ii) Did not disclose that Koola, as a prospective buyer of a converted condominium, has a right to receive the "HPA § 27-31-430-mandated Disclosure Report".

Koola and his Mortgagee received the "Builder's Certification" from developers/sellers, which stated: "For Condo Conversions: The structural, health and safety repairs and remodeling have been completed", which was intended to

affirm that the developer/seller had complied with HPA § 27-31-430. (R. # 18, Builder's certification).

Koola purchased the condominium in Feb. 2004, after paying 10% down payment. Carolina One sold the condominium to Koola stating "**excellent price for quality product!**" (R. # 19, Listing Information Information). Because of the representations made in the Master Deed, the "Builder's Certification", the appraisal report, lack of any cautionary or adverse information from Carolina One, and the assurance that Carolina One is Koola's Exclusive Buyer's Agent and/or Dual Agent, Koola was made to believe that he bought a "Quality Product for Excellent Price", which complied with the HPA.

In June/July 2008, Koola was attempting to sell his condominium to enable him to pay off his mortgage related debts. In June 2008, the Cambridge Lakes Homeowners Association, Inc. ("HOA") initiated a lawsuit[1] (R. # 20, HOA, Summons and Complaint) against the defendants named in this case at bar except Carolina One and a host of other defendants stating massive construction defects. The HOA claimed $8 million as the cost to repair the construction defects (R. # 20) in the common elements of Cambridge Lakes Condominiums. This translates into defects worth $92,307 in the 3-bedroom condominium Koola purchased. Because of the alleged massive construction defects and the stated potential liability of $92,307 attributable to Koola's unit, Koola could not sell his unit in 2008 and 2009. In March 2009 Koola became insolvent and filed for Chapter 7 Bankruptcy. By the end of 2009, Koola defaulted on his mortgage related payments.

[1] Summons and Complaint, *Cambridge Lakes HOA v. Bostic Bros.* Construction, Inc. et al., Case No.: 2008-CP-10-3506, June 8, 2008 ;

Koola's attempt to sell his condominium in April/May 2010 through a short sale did not proceed because of the foreclosure and civil actions brought by the mortgagees and the HOA against Koola.

In 2010, Koola learned from the HOA's Second and Third Amended Complaints[2] filed in the HOA's lawsuit that the developers/sellers and the real estate licensees/brokers did not comply with the provisions of HPA, and more specifically S.C. Code Ann. § 27-31-430, and that the Builder's Certification was falsified and fraudulent.

During 2008-2011, all real estate transactions in Cambridge Lakes were practically frozen except for short sales and foreclosures, and nearly 30% of the Condominium owners lost their homes. **The filing of the foreclosure actions and HOA's civil action in 2010 marked the termination of Koola's ownership of his condominium, which caused heavy damages to Koola**.

III. Procedural History

On November 4, 2010, Koola filed a Complaint against respondents, Trademark and Carolina One and other defendants. (R. # 21, Koola, Complaint). Service of Koola's Summons and Complaints was made timely. However, Koola's attorney of record at the time wanted to withdraw Koola's legal representation and did not advance the case. In March 2012, the Court granted Koola's Motion to appear in the Court as pro se.

Trademark answered the Summons and Complaint **timely**. The Discovery between Trademark and Koola was completed **satisfactorily**.

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[2] HOA, Second Amended Complaint, June 28, 2010 and Third Amended Complaint, July 14, 2010.

Carolina One answered the Summons and Complaint in August 2011 after a delay of nearly nine months. In December 2011, Carolina One and Koola's attorney of record at the time, who wanted to withdraw legal representation and had cut off all contacts with Koola, signed a Stipulation Agreement relieving certain affiliates of Carolina One from the case without Koola's approval and knowledge. In August 2012, Koola, as pro se, filed a Motion for Default Judgment and a Motion to Quash the Stipulation Agreement. The Trial Court denied Koola's Motions. The Trial Judge ordered Carolina One to file amended Answer to Koola's Complaint. Carolina One has not yet filed the amended Answer. Carolina One also did not respond to Koola's Discovery.

Trademark filed Motion for Summary Judgment and supporting documents in compliance with Rule 56 (c). (R. # 22, Trademark, Memorandum, Dec. 5. 2013). Koola filed supporting documents in compliance with Rule 56 (c).

On October 2, 2014, Carolina One filed Motion for Summary Judgment, but did not file any supporting documents in compliance with Rule 56 (c), SCRCP. On October 12, 2014, Koola filed a Motion to Compel. and supporting documents. Immediately thereafter, Carolina One filed two Discovery responses which were pending for more than twenty-two months. The Trial Judge, for undisclosed reasons, did not schedule the Motion to Compel for hearing on October 22, 2014, but ruled at the end of the Motion hearing that the Motion to Compel is dismissed.

Koola's appeal focuses on the questions of law that Koola alleged in his Complaint and the questions of law presented by the parties during the motion hearing. This appeal does not focus on procedural violations in the Trial Court.

On October 22, 2014, the Trial judge heard respondents' Motion for Summary Judgment. Koola has provided a brief summary of the proceeding under Statement of the Case. This Initial Brief, *supra*, pp. 2-4. In short order, the Trial Judge granted Summary Judgment to both respondents. (R. # 1, # 2). The Trial Judge's Order did not set out facts and accompanying legal analysis sufficient to permit meaningful appellate review. Koola filed Motion for Amendment and Reconsideration of the Order Granting Summary Judgment to Trademark and Carolina One on November 12 and December 2, 2014 respectively. (R. # 6, #7). The Trial Judge denied the Motions. (ROA # 3, # 4). On January 9, 2015, Koola filed Notice of Appeal. (R. # 5).

STANDARD OF REVIEW

Supreme Court undertakes a *de novo* review of all issues of law, and is free to decide matters of law with no particular deference to the trial court. *Menezes v. WL Ross & Co., LLC*, 403 S.C. 522, 744 S.E.2d 178, 182 (2013). "We therefore hold a trial court's order on summary judgment must set out facts and accompanying legal analysis sufficient to permit meaningful appellate review. Such an order must include those facts, which the circuit court finds relevant, determinative of the issues and undisputed. In doing so the trail court should provide clear notice to all parties and the reviewing court as to the rationale applied in granting....summary judgment." *Bowen v. Lee Process Systems Co.*, 342 S.C. 232, 236, 238, 536 S.E.2d 86, 88, 89 (Ct.App. 2000).

Under Rule 56(c), SCRCP, "Summary Judgment is proper when it is clear that there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law". *Nexsen v. H*addock, 353 S.C. 74, 77, 576 S.E.2d 183,

185 (Ct.App. 2002). In ruling on a motion for summary judgment, "the evidence and inferences that can be drawn therefrom should be viewed in the light most favorable to the nonmoving party". *Koester v. Carolina Rental Center*, 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994). "If the evidence is susceptible of only one reasonable inference, the question is no longer one for the jury but one of law for the Court". *Ward v. Zelinski*, 260 S.C. 229, 232, 195 S.E.2d 385, 387 (1973).

"The issue of interpretation of a statute is a question of law for the court....The cardinal rule of statutory interpretation is to determine the intent of the legislature....Once the legislature has made a choice, there is no room for the courts to impose a different judgment based upon their own notions of public policy....When the plain language of a statute lends itself to two equally logical interpretations, the Supreme Court must apply the rules of statutory interpretation to resolve the ambiguity and to discover the intent of the general assembly. Where the language of an act gives rise to doubt or uncertainty as to legislative intent, the construing court may search for that intent beyond the borders of the act itself. *Kennedy v. S.C. Retirement System*, 345 S.C. 339, 549 S.E.2d 243, 247 (2001).

Statutes and rules of court should be construed in favor of the right of appeal. *Wieters v. Bon-Secours-St. Francis*, 378 S.C. 160, 662 S.E.2d 430, 434 (Ct.App. 2008).

ARGUMENTS

I. BECAUSE THE TRIAL COURT ERRONEOUSLY RULED THAT THE RESPONDENTS ARE NOT JOINT TORTFEASORS, THE TRIAL COURT DISMISSED THE LIABILITIES OF THE RESPONDENTS TO KOOLA.

On October 22, 2014 during the hearing on Motion for Summary Judgment, Koola represented to the Court that Trademark is liable to Koola as a joint tortfeasor

with other co-defendants for violation of HPA, even though Trademark did not sell the Condominium to Koola. (R. # 6, R. # 23, Transcript). Immediately, the Trial Judge told Koola that he would not accept any argument that Trademark could be a joint tortfeasor. Koola attempted to provide a basis for the finding that Trademark is a joint tortfeasor based on authorities from previous Supreme Court decisions: *Barker v. Sauls*, 289 S.C. 121, 345 S.E.2d 244 (1986); *JKT Company, Inc. v. Hardwick*, 274 S.C. 413, 265 S.E.2d 519 (1980); *Scott by McCure v. Fruehauf*, 302 S. C. 364, 396 S.E.2d 354, *Terlinde v. Neely*, 275 S.C. 395, 271 S.E.2d 768 (1980). However, the Trial Judge refused to hear Koola's position and advised Koola that the Trial Judge's Ruling from the Bench on joint tortfeasor stands, and Koola could appeal the Trial Judge's decision and get his Decision reversed. (R. # 6, #7, #23, Transcript).

Sale of the Apartments, Conversion of the Apartments into condominiums and subsequent sale of the converted Condominiums to the general public in violation of various South Carolina statutes caused harm to Koola, which cannot practically be divided and is a joint tort. All the defendants named herein are joint tortfeasors. This Initial Brief, *supra*, pp. 4-8. Koola cites to the following Supreme Court decisions:

> A tortfeasor [Trademark, agent] may be subjected to tort liability for injury to a third party [Koola] arising out of the tortfeasor's contractual relationship with another [principal], despite the absence of Privity between the tortfeasor [Trademark, agent] and the third party [Koola]; such liability exists independently of contract, and rests upon the tortfeasor's duty to exercise due care.
>
> [A] purchaser may sue a builder on his implied warranty of service, despite the purchaser's lack of contractual privity. Any contrary implication by the Court of Appeals in *Carolina Winds* is rejected." (Internal citations omitted.)

Kennedy vs. Columbia Lumber and Manufacturing Co., Inc., 299 S.C. 335, 384 S.E.2d 730 (1989).

Stare Decisis is the doctrine of precedent, under which a court must follow earlier judicial decisions when the same points arise again in litigation. *State v. One Coin-Operated Video Game Mach.*, 321 S.C. 176, 467 S.E.2d 443 (1996); *Wehle v. South Carolina Retirement System*, 363 S.C. 394, 611 S.E.2d 240 (S.C. 2005). "[S]tare decisis should be used to foster stability and certainty in the law, but [] not to perpetuate error....Stare decisis applies with full force with respect to questions of statutory interpretation because the legislature is free to correct us if we misinterpret its words". *McLeod v. Starnes*, 396 S.C. 647, 723 S.E.2d 198 (2012). "The Supreme Court may want to grant certiorari in the instant case and modify or overrule its previous decision, but this court has no authority to change it". *American Fast Print Ltd., v. Design Prints of Hickory*, 288 S.C. 46, 1986, 339 S.E.2d 516 (Ct.App 1986).

Trademark did not present any arguments why it is not liable to Koola as a joint tortfeasor (R. # 22). Instead of adjudicating on the issue of joint tortfeasor after hearing both parties, the Trial Judge argued the legal issue on behalf of Trademark and prejudiced Koola.

In effect, the Trial judge overruled Appellate Courts' decisions and precedents and promulgated Trial Court's own "rules governing practice and procedure". "A circuit court may not promulgate its own "....rules governing practice and procedure....", and the promulgation of rules by the respective circuits is inconsistent with the constitutional mandate, Article V, section 4 of the South Carolina Constitution, and is unconstitutional and void. *State v. Duncan, Jr.*, 274

S.C. 379, 264 S.E.2d 421 (1980). Modifications or limitations of Supreme Court's decisions [on joint tortfeasors as here] is a violation of S.C. CONST. art. V, § 9. *Daniels v. City of Goose Creek, 314 S.C. 494, 431 S.E.2d 256 (Ct.App. 1993).*

A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity, and impartiality of the judiciary. Canon 2. (A), CJC, Rule 501, SCACR.

A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. Canon 3 B.(7), Rule 501, SCACR.

The Trial Judge did not hear all of Koola's representations during motion hearing and denied Koola Due Process of Law of the U.S. Constitution.

The Trial Judge's refusal to hear Koola's arguments in support of joint tortfeasors, the Trial Judge advice that the Trial Judge's Decision on joint tortfeasors stands, and that Koola could appeal the Trial Judge's decision and get his Decision reversed created two classes of citizens; one class can seek relief in the Circuit Court, and another class have to go to the Appellate Court for review; the said decisions denied Koola Equal Protection Law of the U.S. Constitution. Koola submits to this Court that an appeal is very time consuming for a senior citizen and prohibitively expensive for a pro se appellant.

Whether Trademark and Carolina One are joint tortfeasors is a question of law, and this Court can undertake a de novo review of all issue of law.

II. BECAUSE THE TRIAL COURT DID NOT DETERMINE THE LEGISLATIVE INTENT OF SCHPA AND FAILED TO APPREHEND THE DUTIES OF REAL ESTATE LICENSEES/AGENTS, THE TRIAL COURT ERRONEOUSLY RULED THAT THE RESPONDENTS ARE NOT LIABLE TO KOOLA FOR VIOLATION OF SC. CODE ANN. § 27-31-430.

During hearing for Motion for Summary Judgment and during his Memoranda, Koola argued that because: (i) Trademark and Carolina One, both real estate licensees/brokers, were hired as exclusive agents for sellers of converted Condominiums; and (ii) The Listing agreement stipulated that Owner [developer/seller] shall not deal directly with prospective buyers of this property during the period of this agency (R. # 8), Trademark and Carolina One are mandated to provide S.C. Code Ann. § 27-31-430-mandated Disclosure Report to each prospective buyers.

The mandate of S.C. Code Ann. § 27-31-430 has two elements: (i) Preparation of the Disclosure of the Physical Condition of the Buildings Report prepared under the guidelines of S.C. Code Ann. § 27-31-430; and (ii) Timely delivery of the said Disclosure Report to prospective purchases. When the developer/seller himself sells the converted condominiums to the prospective buyers, then he **assumes both these responsibilities**. When the developer/seller, (the **Principal)**, authorizes a real estate licensee/broker to sell the converted condominiums on behalf of the developer/seller (Principal), then he or she **transfers** or **delegates** these responsibilities to the real estate broker/licensee, the **Agent**. (R. # 6, 7, # 23, Transcript).

S.C. Code Ann. § 40-57-137(F), however, has provided that a seller's agent is not obligated to discover latent defects in property. Therefore, **preparation** of the S.C. Code Ann. § 27-31-430-mandated Disclosure Report, is the sole responsibility of the developer/seller under all circumstances. When the agent sells the converted condominiums on behalf of the developer/seller, the timely delivery of the HPA § 27-31-430-mandated Disclosure Repor HPA § 27-31-430-mandated Disclosure Report

t to prospective buyers falls on the Agent. This is because the agent stands in the shoe of the seller/principal. (R. # 23, Transcript) The developer/seller/principal has conveyed his/her express, implied and apparent authority to the agent to act on behalf of seller/principal. (R. # 6, 7).

Carolina One agued that the seller has to deliver the HPA § 27-31-430-mandated Disclosure report to the prospective buyer **under all circumstances**, and not the Agent. The Trial Judge did not interpret the mandate of the HPA § 27-31-430 at all, and granted summary judgment to respondents, Trademark and Carolina One. The Trial Judge did not address the question how can the prospective buyer receive the HPA § 27-31-430-mandated Disclosure report from the developer/seller, when the buyer and the seller have no direct access to each other except through the agent.

The Trial Judge, an arbiter of facts and law for the resolution of disputes, should have determined the legislative intent of S.C. Code Ann. § 27-31-430 before ruling on Carolina One's summary judgment motion. "If the language of an act gives rise to doubt or uncertainty as to legislative intent, the construing court may search for that intent beyond the borders of the act itself. An ambiguity in a statute should be resolved in favor of a just, beneficial, and equitable operation of the law...." *Wieters v. Bon-Secours-St. Francis*, 378 S.C. 160, 662 S.E.2d 430, 434-436 (Ct.App. 2008).

A plain reading of the S.C. Code Ann. § 27-31-430 reveals the following facts: (i) The buyer of the converted condominium has no responsibility to discover any latent defects; (ii) The developer/seller has to provide the HPA § 27-31-430-mandated Disclosure report to all prospective buyers when the developer/seller

himself sells the converted condominiums without any real estate broker/licensee/agent; (iii) The legislature did not spell out who has the duty to provide/convey the HPA § 27-31-430-mandated Disclosure report" to buyers when the developer/seller employs an exclusive real estate broker/agent to sell the converted condominiums, because the legislature is well aware of the time honored South Carolina Codes dealing with the duties of developers/sellers, real estate brokers/licensees.

Koola cites to the relevant South Carolina Codes and summarized them.

Duties of the owner/developer/seller

(i) The Owner of the real property shall furnish to a purchaser a written disclosure statement. S.C. Code Ann. §27-50-40(A).

(ii) Whenever the owner/developer/seller undertakes the conversion of rental apartments to condominium ownership through the recordation of a master deed, written disclosure shall be made within thirty days of the date of recordation to all prospective buyers. S.C. Code Ann. § 27-31-430.

Duties of Real Estate Licensees

(i) A real Estate licensee acting as a listing agent or a selling agent is subject to the regulations governing his license and performance of his responsibilities as licensee, as provided by the Real Estate Commission. S.C. Code Ann. §27-50-40(C).

(ii) A real estate brokerage company that provides service through an agency agreement for a client is bound by the duties of loyalty, obedience, disclosure, confidentiality, reasonable care, diligence, and accounting. S.C. Code Ann. § 40-50-137(A).

(iii) The broker-in-charge of a real estate brokerage company shall adopt a written policy, which shall include the scope of services provided to the company's clients. S.C. Code Ann. § 40-50-137(B))(2).

(iv) A licensee who represents a seller shall treat all prospective buyers honestly and may not knowingly give them false or misleading information about the condition of the property which is known to the licensee or, when acting in a reasonable manner, should have known to the licensee. ...No cause of action may be brought against a real estate licensee by a seller for information contained in reports prepared by an engineer....A seller's agent is not obligated to discover latent effects in property. S.C. Code Ann. § § 40-50-137(F)(K).

(v) A listing agent or any real estate licensee operating for any party in a residential real estate transaction must inform in writing each owner covered by the listing agreement of the owner's obligations. If the listing agent performs his duty, he is not liable for the owner's refusal or owner's failure refusal to provide a prospective buyer with a disclosure statement. S.C. Code Ann. §27-50-70(A).

Koola argues that **protection of buyers of converted condominiums is the legislative intent** of S.C. Code Ann. § 27-31-430, and the Legislature indented that the real estate licensee/broker/agent must convey or deliver the HPA § 27-31-430-mandated Disclosure report to prospective buyers when the developer/seller employs an agent to market converted condominiums.

Fiduciary Duty

Koola argues that because of the Buyer Representation Agreement (R. # 15) and the Dual Agency Agreement (R. # 16) signed between Koola and Carolina One, there is a Principal (Koola) and Agent (Carolina One) relationship between the

parties, and Carolina One owed fiduciary duty to Koola. S.C. Code Ann. 40-57-137(A); S.C. Code Ann. 40-57-137(M)(1S.C. Code Ann. 40-57-30(A). Koola agues further that fiduciary relation exists between Koola and Trademark: (i) Because Trademark is a joint tortfeasor with other defendants and is liable to Koola; (ii) Trademark performed the following condo conversion process, marketing of the converted condominiums, and to handle all required communications with prospective purchasers. (R. # 10, 11, 12, 13). Trademark negotiated listing agreements and priced the condominium units including the unit Koola bought. Trademark applied for and received new tax map numbers for all the condominiums for subsequent marketing. (R. # 12). Koola represents to this Court that Trademark accomplished substantial amount of work in the sale of a converted Condominium to Koola.

The agent is a fiduciary of the principal and is legally bound to act in good faith to promote and protect the interests of the principal. *Peoples Fed. S & L v. Myrtle Beach Golf*, 310 S.C. 132, 425 S.E.2d 764 (Ct.App. 1992).

One standing in a fiduciary relation with another is subject to liability to the other for harm resulting from a breach of duty imposed by the relation. A fiduciary, who commits a breach of his duty as a fiduciary is guilty of tortuous conduct to the person, for whom he should act. Restatement (Second) of Torts § 874 Violation of Fiduciary Duty (1979) and Comment b thereto.

Duties of Principal and Agent

An Agent is endowed with Express, Implied and Apparent Authority from the Principal to perform certain acts on behalf of the Principal to the third parties and acts as a de facto Principal in performing the duties to the third party.

The Agent stands in the shoes of the Principal. Agency is the fiduciary relation, which results from the manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other to act. Restatement (second) of Agency § 1 (1958); *Peoples Fed. S & L v. Myrtle Beach Golf*, 310 S.C. 132, 425 S.E.2d 764 (Ct.App. 1992), *Roberson v. Southern Finance of South Carolina, Inc.*, 365 S.C. 6, 615 S.E.2d 112 (2005). *Rickborn v. Liberty Life Ins. Co.*, 321 S.C. 291, 468 S.E.2d 292 (1996).

Agent as well as principal concerned in sale has a duty not to make false statements of fact as inducements to buyer. The doctrine that an agent is not liable for contracts made on behalf of a disclosed principal does not apply when the agent must answer, not in contract, but in tort. An agent's liability for his own tortuous acts is unaffected by fact that he acted in his representative capacity. An agent is liable to third person for damages from violation of a duty, which agent owes to third person, and it is immaterial whether that violation is one of malfeasance, misfeasance or nonfeasance. *Roberson v. Southern Finance of South Carolina, Inc.*, 365 S.C. 6, 615 S.E.2d 112 (2005), *Spence v. Spence*, 368 S.C. 106, 628 S.E.2d 869 (2006). *Thomas v. Delta Enterprises, Inc.*, 302 S.C. 351, 396 S.E.2d 122 (Ct.App. 1990). *Lawlor v. Scheper*, 232 S.C. 94, 101 S.E.2d 269 (1957). *Gilbert v. Mid-South Machinery Co., Inc.*, 267 S.C. 211, 227 S.E.2d 189 (1976).

In *State of South Carolina v. C&L Corp. Inc.*, 280 S.C. 519, 313 S.E.2d 334, the Appellate Court affirmed the lower court's decision that the developer and its agent are liable for misrepresentations made by salesman during negotiation for sale of lots, regardless of their knowledge as to those representations and confirmed civil penalty under Unfair Trade Practices Act.

The Trial Court failed to apprehend the duty of care created due to fiduciary duty and duties of principal and agent, the Trial Court erred when it ruled that the respondents are not liable to convey/provide S.C. Code Ann. § 27-31-430-mandated Disclosure Report to Koola.

In addition to the Agency laws and under South Carolina Limited Liability Company Act, S.C. Code Ann. § 33-44-303, the developer/seller *assigned or delegated* the responsibility of providing the HPA-mandated "Disclosure Report" to condominium buyers onto Carolina One.

Law of the Case

Koola argues that the law of the Case applies to the case at bar. *Sloan Const. Co. v. Southco Grassing*, 395 S.C. 164, 717 S.E.2d 603 (S.C. 2011).

During the progression of the HOA's lawsuit[1], Trademark filed a Motion for Summary Judgment against the HOA (Ex.17) stating, among others: (i) Trademark has no duty to provide the S.C. Code Ann. § 27-31-430-mandated Disclosure Report to Cambridge Lakes Condominium buyers; (ii) The HOA is not a prospective purchaser of the condominiums under the code section 27-31-430. (R. # 24, Trademark Memorandum, HOA Lawsuit, Jan. 6, 2011). Trademark has raised the same arguments in its Motion for Summary Judgment against Koola.

The HOA argued, among others: (i) Under South Carolina Limited Liability Company Act, S.C. Code Ann. § 33-44-303, Cambridge Two, LLC and Albert Estee, the developers/sellers, being an LLC, ***assigned or delegated*** the responsibility of providing the S.C. Code Ann. § 27-31-430-mandated Disclosure Report to Condominium buyers to Trademark; and (ii) Sellers hired Trademark to market, sale and manage the conversion of the Cambridge Lakes project ***to handle and to***

convey all required communication or information to prospective purchasers. (R. # 10, 11)

The Trial Judge denied Trademark's Motion for Summary Judgment in the HOA suit and denied Trademark's argument that it is not liable to Cambridge Lakes condominium buyers and the HOA for violation of S.C. Code Ann. § 27-31-430 (R. # 25, Order denying Trademark's Motion for Summary Judgment, HOA lawsuit). Significantly, Trademark did not appeal the decision of the Court. The Trial Court's decision became the Law of the Case.

Under the law of the case doctrine, a party is precluded from relitigating, after an appeal, matters that were either not raised on appeal, but should have been, or raised on appeal, but expressly rejected by the appellate court. *Sloan Const. Co. v. Southco Grassing*, 395 S.C. 164, 717 S.E.2d 603 (S.C. 2011).

This Court may take notice that the Trial Judge in HOA's lawsuit ***denied*** Trademark's argument that Trademark has no duty to provide the S.C. Code Ann. § 27-31-430-mandated Disclosure Report to Condominium buyers. Trial Judge In Koola's lawsuit ***granted*** Trademark's argument that Trademark has no duty to provide the S.C. Code Ann. § 27-31-430-mandated Disclosure Report In effect, the Trial Judge in Koola's lawsuit overruled the Trial Judge in the HOA's lawsuit in the same circuit on the same subject matter jurisdiction. ***This State has a long standing rule that one judge of the same court cannot overrule another.***" *Shirley's Iron Works, Inc. v. City of Union*, 743 S.E.2d 778 (S.C. 2013).

The Trial Judge failed to apprehend the legislative intent of S.C. Code Ann. § 27-31-430.and failed to resolve the uncertainty in the mandate in S.C. Code Ann. § 27-31-430 because the Trial Judge did not search for the Legislative intent beyond

the borders of S.C. Code Ann. § 27-31-430. Consequently, the Trial Judge erroneously granted Summary Judgment to the respondents, Trademark and Carolina One.

The Trial Judge ruled that Trademark and Carolina One have no duty to provide/convey the S.C. Code Ann. § 27-31-430-mandated Disclosure Report to Koola, because he failed to determine the Legislative Intent of S.C. Code Ann. § 27-31-430 and did not search for the Legislative Intent beyond the borders of SCHPA. The Appellate Courts have forewarned that:

> [Appellate] Courts will reject a statutory interpretation, which would lead to a result so plainly absurd that it could not have been intended by the legislature or would defeat the plain legislative intention. A court should not consider a particular clause in a statute as being construed in isolation, but should read it in conjunction with the purpose of the whole statute and policy of the law.

Wieters v. Bon-Secours-St. Francis Xavier Hospital, Inc. et al. 378 S.C. 160, 662 S.E.2d 430 (Ct.App. 2008).

Whether Trademark and Carolina One failed in their duty to provide or convey the S.C. Code Ann. § 27-31-430-mandated Disclosure Report to Koola, is a question of law and this Court can undertake a de novo review of all issue of law.

III. BECAUSE THE TRIAL COURT RULED THAT RESPONDENTS ARE NOT LIABLE FOR FAILURE TO MAKE THE DISCLOSURE AS MANDATED BY SCHPA, THE TRIAL COURT ERRED IN DISMISSING THE RESPONDENTS' VIOLATION OF SCUPTA.

Koola argues that respondents, Trademark and Carolina One, are liable to Koola for Unfair Trade Practices Act on two counts for: (i) Violation of S.C. Code § 27-31-430 specifically and (ii) Unfair Trade Practices in general.

A failure to make the disclosure statement under S.C. Code § 27-31-430 automatically constitutes a violation of the S.C. Unfair Trade Practices Act, which is

the **legislative mandate** of S.C. Code § 27-31-430. For this reason, respondents are automatically liable to Koola for violation of SCUTPA. Even the Supreme Court cannot overrule a legislative intent or mandates, which are supreme in S.C jurisdiction, unless there is a violation of State or U.S. Constitution.

Respondents are also liable to Koola for unfair trade practices under SCUTPA generally, because(i) respondents made misrepresentation to Koola while selling a converted Condominium to Koola; (ii) Respondents' action affected all the Cambridge Lakes Condominium buyers, which total about two hundred buyers and nearly thirty percentage of the homeowners lost their homes to foreclosures and short sales; and (iii) Respondents' action have repetition. In *State of South Carolina v. C&L Corp. Inc.*, 280 S.C. 519, 313 S.E.2d 334(Ct.App. 1984), the Appellate Court affirmed the lower court's decision that the developer and its agent are liable for misrepresentations made by salesman during negotiation for sale of lots, regardless of their knowledge as to those representations and confirmed civil penalty SCUPTA.

IV. BECAUSE LACK OF PRIVITY IS NOT A DEFENSE TO A CAUSE OF ACTION IN S.C. JURISPRUDENCE, THE TRIAL COURT ERRED IN DENYING RESPONDENTS' LIABLILITY TO KOOLA FOR NEGLIGENCE AND BREACH OF CONTRACT/WARRANTY.

Koola has alleged in his Complaint that Trademark and Carolina One are liable to Koola for Negligence. To state a cause of action for negligence, the plaintiff must allege facts which demonstrate: (i) A duty of care owed by the defendant; (ii) A breach of that duty by a negligent act or omission; (iii) A negligent act or omission resulted in damages to the plaintiff; and (iv) That damages proximately resulted from the breach of duty.

Koola represented to the Court that Carolina One: (i) Owed fiduciary duty to Koola; (ii) Did not alert Koola that the sale of the converted Condominium has to comply with the provisions of HPA and more specifically to the provisions of HPA § 27-31-430; (iii) Did not disclose that Koola has a right to receive the "HPA § 27-31-430-mandated Disclosure report (iv) Did not provide or convey "HPA § 27-31-430-mandated Disclosure report to Koola; and (v) Sold Koola a converted Condominium claiming that Koola was buying a "Quality Product for Excellent Price", which complied with the provisions of SCHPA. (R. # 19).

Trademark is also liable to Koola for negligence, which arose from the fact that it is a joint tortfeasor.

> *A tortfeasor [agent, Trademark] may be subjected to tort liability for injury to a third party (Koola) arising out of the tortfeasor's contractual relationship with another [principal, developer/seller], despite the absence of Privity between the tortfeasor [agent] and the third party [Koola]; such liability exists independently of contract, and rests upon the tortfeasor's duty to exercise due care....The duty [owed by the tortfeasor] may be derived from the tortfeasor's contractual relationship with another [contract between Trademark and developer/seller].*

Barker v. Sauls, 289 S.C. 121, 345 S.E.2d 244 (1986)

> *"Parties that have no legal relation to one and who owe the same duty of care to the injured party share a common liability and are joint tortfeasors without a right of indemnity between them."*

*Scott v. Fruehauf Co*rp., 302 S.C. 364, 396 S.E. 2d 354

These authorities and those in *Kennedy vs. Columbia Lumber and Manufacturing Co.,* Inc., 299 S.C. 335, 384 S.E.2d 730 (1989) and *JKT Co. v. Hardwick,* 274 S.C. 413, 265 S.E.2d 510 (1980) clearly show that Trademark and Carolina One, are liable to Koola for negligence without the defense of Privity requirements.

Punitive damages are recoverable in a negligence cause of action when the defendant's conduct rises to the level of a willful, wanton, or a malicious violation of

plaintiff's rights, and a conscious failure to exercise due care constitutes willfulness. *Scott v. Fruehauf Co*rp., 302 S.C. 364, 396 S.E. 2d 354

For the same arguments, Trademark and Carolina One are liable to Koola for Breach of Contract/[Express and Implied] Warranty.

V. BECAUSE THE TRIAL COURT FAILED TO APPREHEND THE INTENTIONAL MISREPRESENTATION MADE BY THE RESPONDENTS TO KOOLA, THE TRIAL COURT ERRED IN DENYING RESPONDENTS' LIABLILITY TO KOOLA FOR FRAUD.

Koola has argued that Trademark and Carolina are liable to Koola for Fraud. Fraud is an intentional misrepresentation of truth for the purpose of inducing another in reliance upon it to part with some valuable belonging to her or to surrender a legal right.

Respondents Trademark and Carolina One had actual and constructive knowledge that they were marketing a converted condominium on behalf of seller. Seller hired Trademark and also Carolina One, by reasoning, to convey all the statutorily mandated disclosure documents to buyers. (R. 10, 11) The Listing agreement stipulated that Owner [developer/seller] shall not deal directly with prospective buyers of this property during the period of this agency. (R. # 8). Therefore, it became the duty of Trademark and Carolina One to provide or convey HPA § 27-31-430-mandated Disclosure report to Koola. Trademark and Carolina One had actual and constructive knowledge that the seller did not provide or convey HPA § 27-31-430-mandated Disclosure report to Koola and to any propsective buyers. If the Principal fails to deliver the mandated Disclosure report to buyers, it becomes the duty of the Agent under the mandate of S.C. Code Ann. §27-50-70 to inform the principal in writing that he/she has to prepare and deliver HPA § 27-31-430-mandated Disclosure report to Koola and other buyers. If the developer/seller

fails to perform in spite of the real estate licensee's notice in writing, the real estate agent/licensee, because of the fiduciary duty and statutorily created duty of care to the buyer, has to disclose to the buyer that his/her right to receive the disclosure report has been violated. Trademark and Carolina One in failed in their duty of care. They sold all the Condominiums to Koola and others by intentionally misrepresenting that sale of the condominiums complied with SCHPA. The Master Deed (R. 9) delivered by Trademark and Carolina One to Koola and other buyers is the documentation that they made an intentional misrepresentation. Trademark and Carolina One committed the tort of fraud.

Koola proves hereby the nine elements of fraud:

(i) A representation: The Master Deed (R. 9) made available by Trademark and Carolina One to Koola [and all other condominium buyers], clearly made the ***representation*** that the conversion of the apartments into condominiums *complied* with South Carolina Horizontal Property Act, S.C. Code Ann. § 27-31-10 *et seq.* They sold the condominium to Koola [and all other condominium buyers], stating "***excellent price for quality product!***". (R. 19).

(ii) Its falsity: The *representation* that the conversion of the apartments into condominiums *complied* with South Carolina Horizontal Property Act, S.C. Code Ann. § 27-31-10 *et seq.* made by the Trademark and Carolina One was absolutely ***false***; for none of the condominium buyers received a copy of the "Disclosure of the Physical Condition of the Buildings" Report (S.C. Code Ann. § 27-31-430). The quality product turned out to be a condominium complex with multimillion dollar construction defects;

(iii) Its materiality: The misrepresentations made by Trademark and Carolina One are ***material***;

(iv) Knowledge of the falsity or reckless disregard of its truth or falsity: Both Trademark and Carolina One had ***actual and constructive knowledge*** of the truth that "Disclosure of the Physical Condition of the Buildings" Report prepared under the guidelines of S.C. Code Ann. § 27-31-430 was not provided to any condominium buyers. In spite of this knowledge, both Trademark and Carolina One sold the Condominiums to all the buyers as if S.C. Code Ann. § 27-31-430 has been complied with;

(v) Intent that the representation be acted upon: Trademark and Carolina One worked diligently so that the unwary condominium buyers **would act on the representations** made to them in the Master Deed;

(vi) The hearer's ignorance of its falsity: Koola was **absolutely ignorant of any representation** that the sale of Cambridge Lakes condominiums did not comply with the mandate of compilation with S.C. Code Ann. § 27-31-430 at the time he bought the condominium;

(vii) The hearer's reliance upon its truth: Koola **absolutely believed and relied upon the representation** made in the Master Deed and the Builder's Certification that the sale of Cambridge Lakes condominiums complied with S.C. Code Ann. § 27-31-430.

(viii) The hearer's right to rely on: The condominium buyers can interact only with the real estate agents and not with the seller. (R. # 8). Therefore, the hearer has **the right to rely on the representations** made by the real estate agents, Trademark and Carolina One; and

(ix) The hearer's consequent and proximate injury: Because of the massive construction defects (R. 20) in the common elements of Cambridge Lakes and the HOA's lawsuit, Koola could not sell his condominium when he tried to sell it ***four times*** during 2008-2010. Clearly, the condominium was not marketable. *The filing of the foreclosure actions and HOA's civil action in 2010 against Koola marked the termination of Koola's ownership of his condominium, which resulted in huge damage to Koola. The defendant's actions were a proximate cause of harm that Koola suffered.* Koola lost everything that he had. At 71 years of age and no resources to live on except limited Social Security benefits, defendants in the case at bar inflicted serious damages upon Koola.

The Court of Appeals affirmed that the salesman and his secretary, who sold a mobile home to a third person on behalf of the principal, were liable to the buyer of the mobile home for fraud. The salesman committed fraud by telling the buyers they could not rescind their contract to buy the mobile home and in misrepresenting the interest rate, and that the salesman was negligent in all aspects of handling the transaction. The secretary committed fraud for negligence in administering an oath and attesting signatures. *Thomas v. Delta Enterprises, Inc.*, 302 S.C. 351, 396 S.E.2d 122 (Ct.App. 1990).

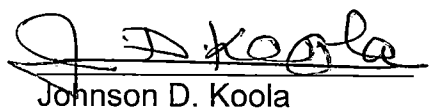
South Carolina Appellate Courts' policy of protecting the new home buyer is evident in *Kennedy v. Columbia Lumber and Mfg. Co., Inc.*, 299 S.C. 335, 384 S.E.2d 730, 736. (1989). "We have made it clear that it would be intolerable to allow builders to place defective and inferior construction into the stream of commerce. The practical difficulties facing today's new home buyer mandate that we allow a buyer to ordinarily proceed against the builder and seller, or either of them....". The

buyers of converted condominiums face similar difficulties because neither the developer/seller nor his real estate licensee agent owns duty to provide/convey HPA § 27-31-430-mandated Disclosure report to condominium buyers when real estate licensee agent sells converted condominiums on behalf of the developer/seller. Consequently, buyers of converted condominium suffer irreversible damages. Also, National Security is endangered when a terrorist entity Principal hires an Agent to perform an illegal activity endangering National Security and neither of them owes liability. Koola prays to this Court to fix liability for providing S.C. Code Ann. § 27-31-430-mandated Disclosure Report to condominium buyers on the real estate licensee/broker when the real estate licensee agent sells converted condominiums to the People of South Carolina.

CONCLUSION

For the reasons stated, this Court should undertake *de novo* review of the Trial Court's decision on questions of law, fix liability on respondents and remand to Trial Court for determining damages. This Court may remand questions of fact, if any, to the Trial Court for further determination.

Respectfully submitted,



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Appellant pro se

April 2, 2015

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable R. Markley Dennis, Jr., Circuit Court Judge

Case No.: 2010-CP-10-9158

APPELLATE CASE No.: 2015-000111

Johnson Koola,.....Appellant,

v.

Cambridge Two, LLC, Albert V. Estee, Individually, Cambridge Lakes, LP, Stephen R. Heape, Individually and as General Partner of Cambridge Lakes LP, Cambridge Lakes Apartment Homes, a/k/a Cambridge Lakes Apartments, LP, a/k/a Cambridge Lakes Apartment Homes, LP, Classic Properties of Charleston, Inc., Cambridge Contracting, LP, Trademark Properties, Inc., Carolina One Charleston Home Team Properties, LLC, Charleston Home Team, LLC, Carolina One, and William E. Jenkinson, IV, individually,

Of Whom Trademark Properties, Inc., and Carolina One Real Estate are the .....Respondents.

PROOF OF SERVICE

I, Johnson Koola, certify that on April 2, 2015, I have served Appellant's Initial Brief and Designation of Matter to be included in the Record on Appeal by depositing a copy of the same in the U.S. Mail, postage prepaid, on April 25, 2015 on counsels of record for the respondents:

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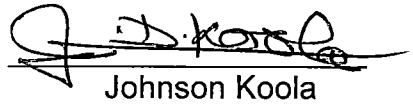
April 2, 2015



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April 2, 2015

The Hon. Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, S.C. 29201

Re: Johnson Koola v. Cambridge Two, LLC. et al.
Case No.: 2015-000111

Sub: Appellant's Initial Brief

Dear Honorable Kitchings:

I am the appellant pro se in the above appeal. I am now filing appellant's Initial Brief and Designation of Matter to be included in the Record on Appeal with proof of service. I have served copies of the same on the counsels of record for the respondents.

Sincerely yours,

J. D. Koola

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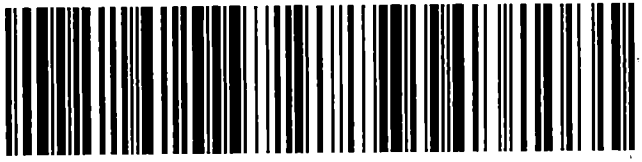

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