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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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AUG 10 2015

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
The Honorable Mikell R. Scarborough, Master in Equity

Appellate Case No. 2014-002242

Windswept Villas III Horizontal Property Regime..... Respondent,

v.

Elaine Devlin Peery a/k/a Elaine D. Peery.....Appellant.

RESPONDENT'S MOTION TO DISMISS APPEAL

Respondent Windswept Villas III Horizontal Property Regime, by and through their undersigned counsel, moves this Court to dismiss Appellant's appeal for failing to comply with Rule 210(c) of the South Carolina Appellate Court Rules, which governs the form and content of the Record on Appeal.

This is the second time Appellant has failed to comply with the requirements set forth in Rule 210(c), SCACR. Appellant initially served an erroneous and incomplete Record on Appeal on April 24, 2015. On April 30, 2015, Counsel for Respondent notified the Court of numerous errors and omissions in the initial Record on Appeal served and requested an extension to serve Final Briefs upon receipt of an error-free Record on Appeal. The Court issued an Order dated July 1, 2015, which required that Appellant serve an amended record within twenty days of the date of the Order and provided that the parties shall have 20 additional days to serve and file their final briefs.

Notwithstanding, the Amended Record on Appeal received by Respondent contains numerous errors and omissions, including but not limited to incomplete transcripts. For example, although the Index indicates that the "Transcript of Hearing dated August 1, 2011" is located within the Record on Appeal, no cover page and only pages 3, 5, 6, 14, and 15 are found. The entire transcript was designated, and Respondent cited to pages omitted by Appellant in the Record. Because the Record is incomplete, Respondent is unable to direct the Court to the pages cited in Respondent's brief. In addition, page 5 of that transcript (located at p. 168 of the Record) contains handwritten notations (presumably written by Appellant's counsel) on part of the transcript.

By way of another example, the entire transcript for the January 24, 2012 hearing was designated and is listed in the Index. Appellant's Record omits the cover page and includes only pages 2, 3, 4, and 20; though Respondent's record citations include pages 20-22. Respondent is therefore unable to direct the Court to the pages cited in its brief.

As another example, the June 20, 2014 transcript was designated in its entirety and is listed in the Index. In the Record, there is no cover page and only pages 17, 18, 20, 21, 22, 23, 33, 34, and 35 are included. Respondent cites to this transcript in its entirety (along with pages 6, 10, and 20-34 in other citations) but cannot direct the Court to those citations because Appellant omitted them from the Record.

In addition, Respondent cites to Exhibit D of its June 17, 2014 Reply. The entire Reply was designated, and the Index reflects that it includes "Windswept's Reply to Peery's Submission in Support of her Motion to Vacate and exhibits filed June 17, 2014." Although Appellant included the Reply and Exhibits A-C, Appellant appears to have omitted Exhibit D, which was filed along with the Reply and other exhibits with the lower

court.

Appellant's persistent errors and omissions have caused undue costs and expenses and delay to Respondent and continue to waste judicial resources. Because this is the second time that the Record on Appeal provided by Appellant's counsel has required numerous corrections, the undersigned respectfully requests that the Court dismiss the appeal for failure to comply with Rule 210(c) of the South Carolina Appellate Court Rules.

Respectfully submitted,



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Attorneys for Respondent Windswept Villas III
Horizontal Property Regime

August 6, 2015

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PROOF OF SERVICE

I certify that I have served the Respondent's Motion to Dismiss on Appellant by depositing a copy of it in the United States Mail, postage prepaid, on August 6, 2015, addressed to his attorney of record for Appellant, Vernee C. Hancock, Post Office Box 2276, Summerville, SC 29484 and by Fax 843-851-0183.



Michaela L. Shepherd
Paralegal to Katie F. Monoc

August 6, 2015