

80231

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Ninth Judicial Circuit
R. Markley Dennis, Jr., Circuit Court Judge

Appellate Case No. 2016-000553

RECEIVED

JUL 14 2016

SC Court of Appeals

Matthew L. Dawson and Kateri Dawson, Plaintiffs,
Of whom Matthew L. Dawson is the Appellant,

v.

Ravenel Associates, Inc. d/b/a Ravenel Associates, Defendant.

Matthew L. Dawson, Plaintiff,

v.

Village Green Homeowners Association, Defendant,
Of whom Village Green Homeowners Association is the Respondent.

**RESPONDENT'S MOTIONS TO SUPPLEMENT THE RECORD ON APPEAL AND
FOR EXTENSION OF TIME TO FILE FINAL BRIEF**

CARLOCK COPELAND & STAIR, LLP
40 Calhoun Street, Suite 400
Charleston, SC 29401
Phone: (843) 727-0307

D. Gary Lovell, Jr., Esq.
S.C. Bar No.: 69293
Douglas W. MacKelcan, Esq.
S.C. Bar No.: 76332
William J. Farley, III, Esq.
S.C. Bar No.: 101033

LUZURIAGA MIMS, LLP
50 Immigration Street, Suite 200
Charleston, SC 29403
Phone: (843) 410-4719

Kevin W. Mims, Esq.
Caroline C. McIntosh, Esq.

*Attorneys for Respondent Village Green
Homeowners Association*

**MOTIONS AND MEMORANDUM IN SUPPORT OF MOTIONS TO SUPPLEMENT
THE RECORD ON APPEAL AND FOR EXTENSION OF TIME TO FILE FINAL
BRIEF**

NOW COMES Respondent Village Green Homeowners Association (hereinafter “Respondent”), by and through the undersigned counsel, and hereby moves this Honorable Court to Supplement the Record on Appeal pursuant to Rules 210(c) and 212(a), SCACR, and for an extension of time to file its Final Brief pursuant to Rule 263, SCACR. On or around April 18, 2016, Appellant Matthew L. Dawson (hereinafter “Appellant”) filed his Initial Brief and Designation of Matter to be Included in the Record on Appeal. On May 18, 2016, Respondent filed its Initial Brief and Designation of Matter to be Included in the Record on Appeal.

In addition to the matter identified by Appellant, Respondent also proposed the following items be included in the Record on Appeal: (1) Defendant’s Answer to Complaint, filed March 21, 2013; (2) Defendant’s Motion for Summary Judgment, filed March 23, 2015; (3) Defendant’s Memorandum in Support of Motion for Summary Judgment, filed September 24, 2015; (4) Complaint Letter of Mr. David Malara and Ms. Virginia Adrihan; (5) Declaration of Covenants, Conditions, and Restrictions for Village Green Subdivision; (6) Bylaws of Village Green Homeowners Association, Inc.; (7) ARB Guidelines of Village Green Homeowners Association, Inc.; (8) Plaintiff’s Letter to Board dated April 2, 2012; (9) Affidavit of Myles Glick, AIA, filed September 2, 2015; (10) Deposition of Shawn Toole; (11) Deposition of Matthew Dawson; (12) Deposition of David Malara; (13) Deposition of Virginia Adrihan; (14) Deposition of Nadine Evans; and (15) Form 4 Order, entered by Judge R. Markley Dennis, Jr. dated October 9, 2015. Counsel for Respondent further certified that all items identified above were relevant to this pending appeal.

On June 23, 2016, Appellant served an incomplete Record on Appeal that does not reflect any of the above-referenced items identified by Respondent to be included in the same. The Record on Appeal served by Appellant contains nothing more than a limited set of items allegedly supporting his appeal of Judge R. Markley Dennis, Jr.'s decision to grant Respondent's Motion for Summary Judgment. Similarly, the Record on Appeal is void of all evidence used by Respondent to support its Motion for Summary Judgment, considered by Judge Dennis at the trial court hearing, and cited in Respondent's Initial Brief to this Court.

Rule 210(c) of the South Carolina Appellate Court Rules clearly states that "the Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267." As applied to this case, Respondent is not seeking to supplement the Record on Appeal beyond the matter it previously designated with this Court. Rather, it is merely seeking an Order requiring Appellant to comply with Rule 210(c), SCACR. Counsel for Respondent has previously attempted to resolve this issue with Appellant; however, these efforts proved futile.

In light of the issues outlined above, Respondent further seeks an Order extending the deadline to file its Final Brief so that it can appropriately cite to a complete Record on Appeal that includes items listed in its Designation. The Record on Appeal, as currently constructed by Appellant, prohibits Respondent from doing so.

CONCLUSION

For the foregoing reasons, Respondent respectfully requests that this Honorable Court enter an Order as follows: (1) Appellant must supplement the Record on Appeal with all items included in Respondent's Designation of Matters to be Included in the Record on Appeal

pursuant to Rule 210(c), SCACR; and (2) an extension of time on Respondent's deadline to file its Final Brief until such time as Appellant prepares and serves a complete Record on Appeal.

Respectfully submitted,



This 12th day of July, 2016.

D. Gary Lovell, Jr., Esq.
S.C. Bar No.: 69293
Douglas W. MacKelcan, Esq.
S.C. Bar No.: 76332
William J. Farley, III, Esq.
S.C. Bar No.: 101033

CARLOCK COPELAND & STAIR, LLP
40 Calhoun Street, Suite 400
Charleston, SC 29401
Phone: (843) 727-0307

Kevin W. Mims, Esq.
Caroline C. McIntosh, Esq.

LUZURIAGA MIMS, LLP
50 Immigration Street, Suite 200
Charleston, SC 29403
Phone: (843) 410-4719

Counsel for Respondent

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Ninth Judicial Circuit
R. Markley Dennis, Jr., Circuit Court Judge

RECEIVED

JUL 14 2016

SC Court of Appeals

Appellate Case No. 2016-000553

Matthew L. Dawson and Kateri Dawson, Plaintiffs,
Of whom Matthew L. Dawson is the Appellant,

v.

Ravenel Associates, Inc. d/b/a Ravenel Associates, Defendant.

Matthew L. Dawson, Plaintiff,

v.

Village Green Homeowners Association, Defendant,
Of whom Village Green Homeowners Association is the Respondent.

PROOF OF SERVICE

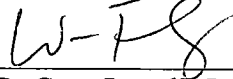
I certify that I have served *Respondent's Motions to Supplement the Record on Appeal and for Extension of Time to File Final Brief*, upon the parties below by depositing a copy of it in the United States Mail, postage prepaid, on _____, 2016, addressed as follows:

[SIGNATURE PAGE TO FOLLOW]

Matthew L. Dawson
3290 Middleburry Lane
Charleston, SC 29414
Pro se Appellant

This 12 day of July, 2016.

CARLOCK COPELAND & STAIR, LLP



D. Gary Lovell, Jr.
S.C. Bar No.: 69293
Douglas W. MacKelcan
S.C. Bar No.: 76332
William J. Farley, III
S.C. Bar No.: 101033

40 Calhoun Street, Suite 400
Charleston, SC 29401
Phone: (843) 727-0307

Luzuriaga Mims, LLP
50 Immigration Street, Suite 200
Charleston, SC 29403

Kevin W. Mims, Esq.
Caroline C. McIntosh, Esq.

***Attorneys for Defendant/Respondent Village
Green Homeowners Association***

LAW OFFICES

CARLOCK, COPELAND & STAIR, LLP

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

DOUGLAS W. MACKELCAN

DIRECT DIAL NUMBER
(843)-266-8228

E-MAIL ADDRESS
dmackelcan@carlockcopeland.com

40 Calhoun Street, Suite 400
CHARLESTON, SC 29401

TELEPHONE (843) 727-0307

FAX (843) 727-2995

www.carlockcopeland.com

ATLANTA OFFICE

191 Peachtree Street, N.E.
Suite 3600
Atlanta, Georgia 30303
(404) 522-8220

REPLY TO SC OFFICE
RECEIVED

JUL 14 2016

SC Court of Appeals

July 12, 2016

The South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk
P.O. Box 11629
Columbia, SC 29211

Re: Matthew L. Dawson and Kateri Dawson, Plaintiffs, Of whom Matthew L. Dawson is the Appellant v. Ravenel Associates, Inc. d/b/a Ravenel Associates, Defendant.

Matthew L. Dawson, Plaintiff v. Village Green Homeowners Association, Defendant, Of whom Village Green Homeowners Association is the Respondent.

Appellate Case No. 2016-000553
CCS File No.: 2254-47228

Dear Ms. Kitchings:

Please find enclosed the original and six (6) copies of Respondent Village Green Homeowners Association's Motions to Supplement the Record on Appeal and For Extension of Time to File Final Brief in this case, together with the filing fee. Please provide me with a clocked copy of the Motions, using the enclosed a stamped, self-addressed envelope. Should you have any questions or concerns, please do not hesitate to give me a call. By copy of this letter, I am providing a copy of the enclosed Motions to *pro se* Appellant, Matthew L. Dawson.

Sincerely yours,



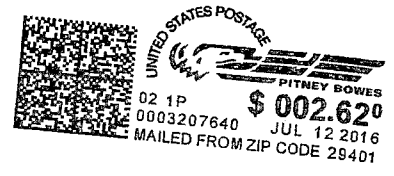
FOR DOUGLAS W. MACKELCAN

DWM:tjr

Enclosures

cc: *Matthew L. Dawson*, pro se Appellant (w/encl)

5497540v.1



First Class Mail

RECEIVED

JUL 14 2016

SC Court of Appeals



CARLOCK COPELAND & STAIR, LLP
40 Calhoun Street, Suite 400
Charleston, SC 29401-3531

The South Carolina Court of Appeals
Jenny Abbott Kitchings, Clerk
P.O. Box 11629
Columbia, SC 29211

