

August 3, 2017

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

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AUG 07 2017

SC Court of Appeals

Re: Walter L. Pepperman II, and T. Ann Pepperman, Appellants, v. Henry H. Edwards, and Pamela J. Edwards, Respondents, Appellate Case No. 2016-002552.

Dear Clerk Kitchings:

Appellants are in receipt of respondents' letter to you of July 30, 2017, in the captioned matter. This is appellants' response to that letter.

1. Appellants have appealed to this Court from an Order by the Honorable R. Keith Kelly of the Court of Common Pleas dated September 9, 2016, entered as a result of a hearing held August 23, 2016, nearly a year ago. The entire transcript of that hearing has been prepared, as reported by appellants to the Court in a letter dated May 31, 2017. The transcript was ordered because respondents refused to agree that it was not needed to resolve the purely legal issues raised by this appeal. In response to a motion by appellants (which respondents did not bother to answer), the Court has ordered that respondents' answering brief be filed no later than 30 days from July 21, 2017. By not raising their current complaint in an answer to appellants' motion regarding the filing of their brief, respondents have waived any opportunity further to delay the filing of that brief.
2. Although respondents were copied in on all correspondence with the court reporter regarding this transcript, appellants have no information indicating that respondents ever ordered a copy, and respondents' letter in fact indicates they have not. Accordingly, the answer to respondents' question regarding receipt of a copy of this transcript is to contact the court reporter and purchase a copy.
3. As to respondents' alleged also" requiring" a transcript of proceedings before the Magistrate, the answer is as follows. This is a disingenuous effort further to delay the disposition of this appeal because it ignores what specifically is before this Court: two legal issues presented from the face of the order appealed from. The first is whether Judge Kelly committed an error of law by, after finding that appellants were making a latent defect claim, refusing to apply the law of South Carolina on such claims as set out in Lane v. Trendholm, 229 SE2d 729 (Supr. Ct. 1976). The second is whether Judge Kelly committed an error of law in misconstruing the Residential Property Condition Disclosure Statement involved in the underlying undisputed real estate sale transaction. Any transcript of the Magistrate Court hearing (at which there was no court reporter), cannot be of any assistance in resolving those legal issues. Appellants submit that this is why respondents have not asked for court action by filing a motion. They cannot justify their alleged "requirement".
4. This appeal was filed in December of 2016. Appellants' initial brief was served with a letter to the Clerk dated January 17, 2017. From that date, respondents have delayed the progress of the appeal over alleged need for transcripts, but without ever explaining the basis for this alleged need. This delay has now been ended with the Court's Order of July 21, 2017, on appellants' unanswered motion, and no record showing has been made which would require that it be changed.

5. Finally, the hearing in the Magistrate's Court was prolonged and complicated by various spurious counterclaims made by respondents, all of which were rejected in that Court and as to which respondents made no cross appeal in the Court of Common Pleas. Any transcription of this would be a useless act, and there were no fact issues with respect to appellants' claims in that Court requiring any transcription. The Court of Common Pleas only had jurisdiction to determine any legal issues arising from the face of the Magistrate Court's decision. It is Judge Kelly's failure properly to address those legal issues that has now been brought to this Court for review. Any issue with respect to a transcript of the Magistrate Court hearing should have been dealt with then, but was never raised by respondents. And, Judge Kelly obviously did not find that a transcript was necessary for him to decide the legal issues within his jurisdiction.


Respectfully yours,

Walter L. Pepperman II
165 Old Melvin Hill Road
Campobello, SC 29322
Appellant

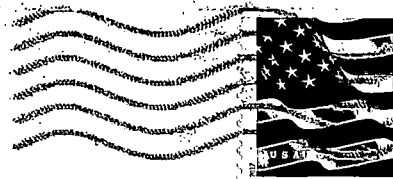
cc: Henry H. Edwards, and Pamela J. Edwards, Respondents.



Mr. Walter L. Pepperman, II
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