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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

The Honorable Frank R. Addy, Jr., Circuit Court Judge

RECEIVED

JAN 26 2018

SC Court of Appeals

Case No. 2015-CP-24-00892

Appellate Case No. 2017-00810

Jeffrey S. Kagan.....Appellant,

v.

D. Renee SimchonRespondent.

RESPONDENT'S MOTION TO SUPPLEMENT RECORD ON APPEAL

J. Walker Coleman, IV
Meg E. Sawyer
K&L Gates LLP
134 Meeting Street, Suite 500
Charleston, SC 29401
(843) 579-5600
walker.coleman@klgates.com
meg.sawyer@klgates.com

Edward S. McCallum, III
Law Offices of Edward S. McCallum, III
P. O. Box 148
Greenwood, SC 29648
mccallum@greenwood.net

ATTORNEYS FOR RESPONDENT

The Respondent moves, pursuant to Rules 212(b) and (c) of the South Carolina Appellate Court Rules (“SCACR”), to supplement the Record on Appeal with the Transcript from the hearing on Defendants’ Motion to Dismiss, held on February 8, 2016 (the “Transcript”), included in the proposed Appendix to the Record on Appeal enclosed herewith.

Rule 212(b), SCACR, provides that, “With the written consent of all attorneys of record, a party may supplement the Record on Appeal at any time before argument commences. Without such consent or after argument commences, a party desiring to supplement the Record on Appeal must move the appellate court for leave to do so.” Supplemental materials filed under Rule 212(b) shall be included in an Appendix. Rule 212(c), SCACR.

According to the Index of the Record on Appeal in this matter, the Transcript should begin on page 340 of the Record on Appeal and end on page 353. However, the Transcript is not included in any of the copies of the Record on Appeal provided to Respondent, nor is it included in the electronic copy on file with this Court. This appears to be a simple clerical error. Accordingly, pursuant to Rule 212(c), SCACR, Respondent respectfully requests that the Court supplement the Record on Appeal with the proposed Appendix enclosed herewith, which includes the Transcript as designated in the Index of the Record on Appeal.

The undersigned counsel for the Respondent contacted the Counsel for Appellant regarding this matter. It is Respondent’s understanding that Appellant did not intend to omit the Transcript from the Record on Appeal and, therefore, has filed a separate motion to supplement the Record on Appeal to include the Transcript. Respondent does not believe, however, that Appellant included a proposed Appendix as contemplated by the Appellate Court Rules. Given the deadline for the parties’ final briefs, and out of an abundance of caution, Appellant submits this Appendix so that the parties may submit their final briefs within the Court’s prescribed

deadline and cite to the appropriate corresponding page numbers in their final briefs when referencing the Transcript. Accordingly, Respondent refers the Court to the Appendix when citing to the Transcript in her Final Brief.

Respectfully submitted,

K&L GATES LLP

MS

J. Walker Coleman, IV
Meg E. Sawyer
134 Meeting Street, Suite 500
Charleston, SC 29401
(843) 579-5600
walker.coleman@klgates.com
meg.sawyer@klgates.com

Edward S. McCallum, III
Law Offices of Edward S. McCallum, III
P. O. Box 148
Greenwood, SC 29648
mccallum@greenwood.net

Attorneys for Respondent

January 24, 2018

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

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The Honorable Frank R. Addy, Jr., Circuit Court Judge **JAN 26 2018**

SC Court of Appeals

Case No. 2015-CP-24-00892

Appellate Case No. 2017-000810

Jeffrey S. Kagan, Appellant,

v.

D. Renee Simchon Respondent.

PROOF OF SERVICE

I certify that I have served Respondent's Motion to Supplement Record on Appeal on Jeffrey S. Kagan, Appellant, by depositing a copy in the United States Mail, postage prepaid, on January 24, 2018, addressed to his attorney of record, C. Rauch Wise, Esq., 305 Main Street, Greenwood, SC 29646.

K&L GATES LLP
Walker Coleman IMS

J. Walker Coleman, IV
Meg Sawyer
134 Meeting Street, Suite 500
Charleston, SC 29401
(843) 579-5600
walker.coleman@klgates.com
meg.sawyer@klgates.com

Edward S. McCallum, III
Law Offices of Edward S. McCallum, III
P. O. Box 148
Greenwood, SC 29648
mccallum@greenwood.net

Attorneys for Respondent

January 24, 2018

January 24, 2018

J. Walker Coleman, IV
walker.coleman@klgates.com
T +1 843 579 5627

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

Re: **D. Renee Simchon v. Jeffrey S. Kagan**
Appellate Case No. 2017-000810

RECEIVED

JAN 26 2018

SC Court of Appeals

Dear Ms. Kitchings:

Enclosed for filing are the following documents in connection with the above-referenced case:

1. Original and seven (7) copies of Respondent's Motion to Supplement Record on Appeal;
2. Original and one copy of Proof of Service of Respondent's Motion to Supplement Record on Appeal;
3. Original (unbound) and sixteen (16) bound copies of Appendix to Record on Appeal;
4. Original and one copy of Proof of Service of Appendix to Record on Appeal;
5. Original (unbound) and sixteen (16) bound copies of Final Brief of Respondent;
6. Original and one copy of Certificate of Counsel;
7. Original and one copy of Proof of Service of Final Brief of Respondent.

Also enclosed is our check in the amount of \$25.00 for your filing fee for Motion. Please return stamped copies to us in the enclosed self-addressed stamped envelope.

By copy of this letter, we are serving all counsel of record.

Thank you for your assistance with this matter. Please do not hesitate to contact me if you have any questions.

With kind regards, I remain

Very truly yours,

Walker Coleman /MS

J. Walker Coleman, IV
Enclosures

cc: C. Rauch Wise, Esq. (via U.S. Mail, w/encl.)
Edward S. McCallum, III, Esq. (via U.S. Mail, w/encl.)