

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
Appellate Case #2016-002177

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Donald B. Hocker, Circuit Court Judge

Appellate Court Case No. 2016-002177
Circuit Court Case No. 2016-CP-32-1968

Gerald J. Nagy, Appellant,
v.
Bob Rice Realty, Inc., Respondent.

**APPELLANTS REPLY TO RESPONDENTS MOTION FOR
MODIFICATION OF APPELLANTS RECORD ON APPEAL**

Come now the Appellant, Gerald J. Nagy, pro se, and hereby presents the following:

1. In Section 1-A, Respondent states that in the original Magistrates case only one document was entered into evidence, which was a lease. To the best of his recollection, Appellant agrees that was the only document entered into evidence. However, Appellant also filed an Answer and Counterclaim prior to trial and that document was also considered in the original hearing. (R.pp.05-08)
2. Respondent further states in Section 1-A, "**...the lease at issue in this appeal.**" That statement is false. The validity of the lease was clearly decided in Appellants appeal in Circuit Court. The lease is a settled matter and is very specifically not part of this appeal. Only the monetary damage award granted to Appellant within the Circuit Court is at appeal.
3. In Section 1-B, Respondent references an email to which Appellant has no knowledge.

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There was an email discussed at the beginning of the appeal in Circuit Court, (R.p.18.lines5-9) but it was never handed up to the Court. The topic of that email was Bob Rice Realty, Inc.'s lack of interest in defending their case.

4. In Section 1-C, Respondent references Rule 220(c), SCACR concerning the Record on Appeal. Appellant is unable to locate any portion of Rule 220(c) that pertains to the Record on Appeal. There is a Rule 210(c), SCACR and Appellant believes that Respondent is referring to that rule. To wit, Appellant listed nothing in his Record on Appeal that was not presented in the original Magistrates hearing and/or the subsequent appeal to the Circuit Court on which this appeal is based.
5. In Section 1-D, Respondent requests that a portion of Appellants Record on Appeal be excluded. The majority of the section Respondent is requesting to be excluded are items that appear in Respondents own Designation of Matter. Respondents Designation was filed with this court on July 21, 2017, the pertinent portion attached hereto as Exhibit A. Appellant is at a loss to understand why Respondent would items listed in her Designation but now request those items now be excluded, or even if a "post-Designation" exclusion is allowable under Appellate Court Rules. Additionally, these matters were entered into evidence during the Circuit Court appeal hearing, Respondent did not object to their being entered, and the Court accepted them in the context of the appeal hearing, within their scope of Authority.
6. In Section 1-D, Respondent requests an email be included in the Record on Appeal. Again, Appellant is at a loss to understand the email to which Respondent is referencing. The one email mentioned during the hearing has already been discussed in #3 (above).
7. In Section 2-A, Respondent alternatively requests that Appellants Record on Appeal be modified and then states: **"...Appellant...fails to include those matters designated by the**

Respondent." This is a claim that Respondent knows is patently false. See #9 below.

8. In Section 2-B, Respondent references Rule 220(c), SCACR, but doesn't really state anything. Appellant is at a loss.
9. In Section 2-C, Respondent again references Rule 220(c), SCACR but this time quotes from Rule 210(c), SCACR. Regardless, the pertinent portion of Respondents Designation of Matters is attached hereto as Exhibit A, and Appellant address each item listed (items are in underlined italics, and disposition information follows):
 1. Magistrates Court Transcript. Neither the Circuit Court or the Appellate Court was furnished a transcript by the Magistrates Court. The Magistrate did file a Return which was a synopsis of the hearing. (R.pp.11-14) Neither the Circuit Court nor the Court of Appeals has ordered the Magistrate to provide a transcript. Appellant does not believe he is required to order and pay for a transcript simply because Respondent makes a request. Further, Appellant does not believe it would have any bearing on this appeal as the decision of the Magistrate was reversed and therefore would be irrelevant.
 2. Magistrates Return to Civil Appeal, dated June 6, 2016. Included in Appellants Record on Appeal. (R.pp.11-14)
 3. Bench Order of Judge Donald B. Hocker, dated September 20, 2016. Included in Appellants Record on Appeal. (R.pp.02-04)
 4. Circuit Court Transcript of September 20, 2016. Included in Appellants Record on Appeal. (R.pp.15-32)
 5. Exhibits presented to Circuit Court at hearing of September 20, 2016. There were no exhibits presented to Circuit Court during the hearing on September 20, 2016. The Transcript clearly states such. (R,p15,lines14-19).

6. Lease for term January 1, 2014 - December 31, 2014. Respondent is fully aware the document as referenced does not exist. There is a Residential Lease Agreement, the term of which ran from January 01, 2014 through December 31, 2016, this term being settled matter having been determined by the courts, and is included in Appellants Record on Appeal. (R.pp.33-36)
7. Respondent Letter dated October 2013. Respondent's Designation is vague. However, the document to which Appellant believes Respondent is referring is included in Appellants Record on Appeal. (R.pp.37-38)
8. Respondent Letter dated January 2014. Respondent's Designation is vague. Appellant did not receive any letter from Respondent dated anytime in January, 2014. If such a letter existed, based on it's date it would have been entered into evidence in the original Magistrates hearing. In Section 1-A, Respondent states: "**In the underlying case, Magistrates Court Case, Docket Number 2016-CV-32-1060854, the only exhibit entered into evidence was the lease...**".
9. Respondent's Notice to Vacate dated July 8, 2015. Included in Appellants Record on Appeal. (R.p.39)
10. Correspondence from Appellant, dated August 18, 2015. Included in Appellants Record on Appeal. (R.p.40)
11. Appellants Request for Two Month Extension, dated November 28, 2015. No such document exists as referenced. There is a Two Month Extension Request - December 21, 2015 included in Appellants Record on Appeal (R.p.42).
12. Respondents Notice to Vacate dated February 22, 2016. Included in Appellants Record on Appeal. (R.p.43)

13. Correspondence from Appellant dated February 29, 2016. Included in Appellants Record on Appeal. (R.p.44)

14. Respondents Notice to Vacate dated April 4, 2016. No such document exists as referenced. Appellant did not receive any letter from Respondent dated anytime in April, 2016. In Section 1-A, Respondent states: "**In the underlying case, Magistrates Court Case, Docket Number 2016-CV-32-1060854, the only exhibit entered into evidence was the lease...**". There is a letter to Appellant from Respondent dated March 31, 2016. However, that letter was never entered into evidence in any lower court and under Rule 210(c), SCACR, Appellant does not believe he is allowed to include it in his Record on Appeal. Further, Appellant does not believe it would have any bearing on this appeal as the decision of the Magistrate was reversed and therefore would be irrelevant.

15. Correspondence from Appellant dated December 30, 2016. The date of this letter is subsequent to the filing of this appeal and has nothing to do with this appeal. Additionally, as this letter was never entered into evidence in any lower court and as it's date is subsequent to the filing of this appeal, under Rule 210(c), SCACR, Appellant does not believe either party is allowed to include it in the Record on Appeal.

Appellant believes he is in full compliance with Rule 210(c), SCACR.

10. In Section 3-B & C, Respondent makes claims as to the deficiency of both Appellants Record on Appeal and his Final Brief. Respondent is correct. While there is no defense, Appellant is acting Pro Se and in every way possible has tried to fully comply with all applicable Appellate Court Rules, and has corrected all deficiencies whenever they have been noted by the Clerk. However, Respondent might have overlooked that under Rule 267(f), it is the duty of the Clerk of Court of the Appeals Court to "police" deficiencies and act accordingly.

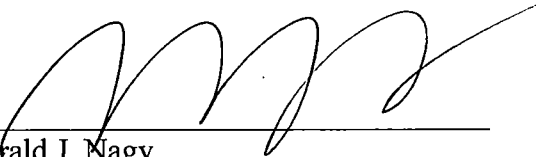
Were Appellant to act as critical as Respondent, Appellant would point out that Respondent might also be deficient in her filings:

- a. as Respondent failed to include the proper Rule 211(b) certification in her Final Brief as required under Rule 211(a), SCACR.
- b. based on Respondents failure to comply with the letter sent to both parties on October 17, 2017, by Deputy Clerk of Court V. Claire Allen detailing the correct captioning both parties were to use moving forward, and Respondent has failed therein with every filing since that date.
- c. as Respondent seems to have added her contact information to the top red cover of her final brief based on the photo copy (only) served on Appellant.

However, Appellant chooses to not be that critical and has been presenting arguments dealing with facts and applicable South Carolina Statute, rather than trying to obfuscate and not address the arguments presented.

Appellant prays this Honorable Court will dismiss Respondents motion in it's entirety.

Respectfully submitted,
January 23, 2018



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Pro Se

EXHIBIT A

Respondent proposes the following be included in the Record on Appeal:

1. Magistrate Court Transcript
2. Magistrate's Return to Civil Appeal, dated June 6, 2016
3. Bench Order of Judge Donald B. Hocker, dated September 20, 2016
4. Circuit Court Transcript of September 20, 2016
5. Exhibits presented to Circuit Court at hearing of September 20, 2016
6. Lease for term of January 1, 2014 – December 31, 2014
7. Respondent Letter dated October 2013
8. Respondent Letter dated January 2014
9. Respondent's Notice to Vacate dated July 8, 2015
10. Correspondence from Appellant, dated August 18, 2015
11. Appellant's Request for Two Month Extension, dated November 28, 2015
12. Respondent Notice to Vacate dated February 22, 2016
13. Correspondence from Appellant dated February 29, 2016
14. Respondent's Notice to Vacate dated April 4, 2016
15. Correspondence from Appellant dated December 30, 2016

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I certify that this designation contains no matter which is irrelevant to this appeal.


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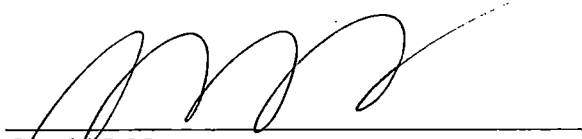
CERTIFICATE OF SERVICE

I, Gerald J. Nagy, hereby attest and affirm that on this date, January 23, 2018, I served the within and foregoing APPELLANTS REPLY TO RESPONDENTS MOTION FOR MODIFICATION OF APPELLANTS RECORD ON APPEAL, by having deposited a copy of the aforementioned document with the method and on the parties as indicated below:

Via postage prepaid United States Postal Service First Class Mail, article addressed to:

Cynthia K. Mason
Holler, Garner, Corbitt, Gilchrist, Hayes, & Mason
1777 Bull Street
Columbia, South Carolina 29201

ATTEST:



Gerald J. Nagy

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