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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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

RECEIVED
APR 09 2018
SC Court of Appeals

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

Gerald J. Nagy, Appellant.

v.

Bob Rice Realty, Inc., Respondent,

MOTION FOR CLARIFICATION
AND INSTRUCTION FROM THE COURT

Come now the Appellant, Gerald J. Nagy, Pro Se, and hereby submits the following:

FACTS

1. On July 21, 2017, Respondent filed a DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL which consisted of fifteen items. Copy attached as Exhibit A.
2. On November 10, 2017, Appellant filed his RECORD ON APPEAL which included ten of Respondents fifteen items.
3. On January 12, 2018, Respondent filed a MOTION FOR MODIFICATION OF APPELLANT'S RECORD ON APPEAL.
4. On January 23, 2018, Appellant filed APPELLANTS REPLY TO RESPONDENTS

MOTION FOR MODIFICATION OF APPELLANTS RECORD ON APPEAL .

5. On March 29, 2018, the Honorable James E. Lockemy issued an ORDER wherein Respondents motion was "...granted in part and denied in part." Appellant was ordered:

"...within thirty days of the date of this order, Appellant shall serve and file a supplemental record on appeal. The supplemental record shall contain all matters designated by Respondent that were omitted from the original record, including the "email involving settlement negotiations between the parties" that was presented to the circuit court in Case No. 2016-CP-32-01968."

6. The five items in Respondents record that were not included in Appellants record are listed as follows (items are in underlined italics, and disposition information follows):

A. 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 (R.pp.11-14) but did not submit a transcript. There was no court reporter present, Appellant could not find where a transcript was required by statute or court rules for the appeal to Circuit Court, Appellant never ordered a transcript, thus it was not included in Appellants record.

B. 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). Appellant did reference an email to Judge Hocker at the onset of the hearing

Mr. Nagy: ... But Rice Realty has no intention of showing up today, sir. I have a copy of some e-mail correspondence from my counsel that indicated they're not going to be showing today. They have no interest in

pursuing this case any further. (Pause) (R,p.18,lines5-10)

The contents of the email chain were between Respondent and Appellants Attorney pertaining to a different but related matter. Respondent was attempting to coerce Appellant to perjure himself in various legal documents pertaining to the sale of the residence under discussion, and Appellant felt he needed the assistance of Counsel. As this was never presented to the court, under Rule 210(c), SCACR Appellant did not include it in the record. This email chain is attached herein as Exhibit B.

- C. Respondent Letter dated January 2014. Respondent's Designation is vague. Appellant did not receive any correspondence from Respondent dated anytime in January, 2014. In reviewing emails again in preparation of this motion, Appellant did have email communications with Respondent on January 07, 2014 and January 08, 2014 concerning frozen water pipes. This was never presented to the court. This email chain is attached herein as Exhibit C.
- D. 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. Appellant did receive a Notice to Vacate dated March 31, 2016, but this notice was never presented to the Magistrate Court. In Respondents MOTION FOR MODIFICATION OF APPELLANT'S RECORD ON APPEAL, Page 1, Section I. Matters nor Presented to Trial Court (Part A.), Respondent states: "In the underlying case, Magistrate Court Case, Docket Number 2016-CV-32-106854, the only exhibit entered into evidence was the lease at issue in this appeal." As this was never presented to the court, under Rule 210(c), SCACR Appellant did not include it in the record.
- E. Correspondence from Appellant dated December 30, 2016. This letter is dated

subsequent to the filing of this appeal as was specifically excluded from Appellants Record On Appeal. As this was never presented to the court, under Rule 210(c), SCACR Appellant did not include it in the record.

PRAYER

While Appellant is acting Pro Se, he believes this is not an excuse for submitting "sloppy" or incomplete filings to the court. However, pertaining to the five items listed in #6 above, Appellant is at a loss as to how to proceed, and thus requests this Court provide guidance on how to comply with the ORDER by Judge Lockemy for each of these items, and provide the requested clarification and/or relief as itemized below:

A. Magistrates Court Transcript.

As Appellant never requested and is not in possession of a transcript, that this be excluded from supplemental record; OR)

If Respondent had ordered a transcript, that Respondent forward a copy to Appellant to be included in supplemental record and the thirty day time frame in the original ORDER by Judge Lockemy be extended to allow sufficient time for Respondent to forward the transcript; OR)

If the Court requires Appellant to obtain a transcript, the thirty day time frame in the original ORDER by Judge Lockemy be extended to allow Appellant sufficient time to obtain a transcript, if one is available.

B. Exhibits presented to Circuit Court at hearing of September 20, 2016.

As there were no exhibits presented to Circuit Court during the hearing on September 20, 2016, that this item be excluded under Rule 210(c), SCACR; OR)

Noting that a copy of the email chain (#6-B above) is attached hereto for the courts

reference, Appellant can include it in the supplemental record.

C. Respondent Letter dated January 2014.

This item was never presented to any court and as such, this item be excluded under Rule 210(c), SCACR; OR)

Noting that a copy of the email chain (#6-C above) is attached hereto for the courts reference, Appellant can include it in the supplemental record.

D. Respondents Notice to Vacate dated April 4, 2016.

As noted, (#6-D above) the Notice to Vacate dated March 31, 2016, was never presented to any court and as such, this item be excluded under Rule 210(c), SCACR; OR)

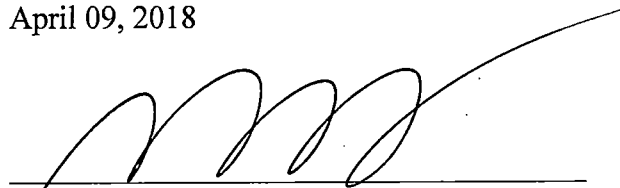
Appellant can include it in the supplemental record.

E. Correspondence from Appellant dated December 30, 2016.

This letter is dated subsequent to the filing of this appeal, was never presented to any court, and as such this item be excluded under Rule 210(c), SCACR; OR)

Appellant can include it in the supplemental record.

Respectfully submitted,
April 09, 2018



Gerald J. Nagy
Mail Stop 149
911 Old Barnwell Road
West Columbia, South Carolina 29170
(803) 808-3438
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

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


Cynthia K. Mason
Holler, Garner, Corbett, Gilchrist,
Hayes & Mason
PO Box 11006
Columbia, SC 29211
(803) 765-2968

EXHIBIT B

MGC Data Services

From: <shiplaw@jhcooper.com>
To: "Gerald Nagy" <mgcdata@magyarmail.com>
Sent: Sunday, September 18, 2016 1:08 PM
Subject: [FWD: Re: Hi, from Terri at Bob Rice Realty regarding Gerald Nagy/300 Timber Ridge]
FYI

Best regards,
John Hughes

John Hughes Cooper
John Hughes Cooper, P.C.
www.JHCOOPER.com
1476 Ben Sawyer Blvd., Ste 11
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C 843-693-9099
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----- Original Message -----

Subject: Re: Hi, from Terri at Bob Rice Realty regarding Gerald Nagy/300 Timber Ridge
From: Terri McLaughlin for Bob Rice Realty <bobricerealty@gmail.com>
Date: Fri, September 16, 2016 9:07 am
To: "shiplaw@jhcooper.com" <shiplaw@jhcooper.com>

Thanks for your response!

So you know:

We are not going to go to court on Tuesday since there's no point. We're ok with letting Mr Nagy stay til December even if the sale doesn't go through.

Secondly, we haven't sent the contract to the attorney yet, as the buyer hasn't had inspections done and we may not move forward on the sale unless he is satisfied, the price may change, etc. Once we are moving forward for sure (inspections are Tuesday), we will send everything out to everyone.

Thanks!

Terri

On Friday, September 16, 2016, <shiplaw@jhcooper.com> wrote:

Dear Ms. McLaughlin:

Is seller and/or purchaser represented by an attorney? Is there a closing attorney for the transaction? If so, please have the attorney

contact me to work out the details of the new lease and settlement of the litigation at the Circuit Court and Magistrate's Court levels. Thank you.

Best regards,
John Hughes

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----- Original Message -----

Subject: Hi, from Terri at Bob Rice Realty regarding Gerald Nagy/300 Timber Ridge
From: Terri McLaughlin for Bob Rice Realty <bobricerealty@gmail.com>
Date: Thu, September 08, 2016 11:59 am
To: Shiplaw@jhcooper.com

Hello, sir.

I know you've counseled Mr. Nagy not to sign the Estoppel Certificate, and so as we move forward with the closing of the sale of the property, we just want to be sure we are all on the same page--with the understanding that his lease expires at the end of the year. We're just trying to gauge exactly what his intentions are. If we are all on the same page, I'll know what to tell our attorney before passing on your information. If not, we need to know before we can close. The Estoppel was just to make sure the terms of the lease don't later come into dispute.

Thanks,
Terri

"Terri Mac"

Terri Lynn McLaughlin
Property Manager and Sales Broker, Bob Rice Realty
HABLO EL ESPANOL
2201 Marshall Street--Columbia, S.C.--29203
803-200-7154 (Cell)
803-779-2600 (Office)

803-403-8914 (Fax)

--
"Terri Mac"

Terri Lynn McLaughlin
Property Manager and Sales Broker, Bob Rice Realty

HABLO EL ESPANOL

2201 Marshall Street--Columbia, S.C.--29203

803-200-7154 (Cell)

803-779-2600 (Office)

803-403-8914 (Fax)

EXHIBIT C

MGC Data Services

From: "General Delivery" <Catch-All@MagyarMail.com>
To: "Bob Rice" <bobricerealty@gmail.com>
Sent: Wednesday, January 08, 2014 9:34 AM
Subject: Re: Water Pipes
Hi Terry,

No need, I approached it as an IT problem and got it fixed. I am sure you are swamped so we'll talk later. Please acknowledge you got this as I am still unable to reach you by telephone.

Thanks!

Gerald

----- Original Message -----

From: Bob Rice
To: General Delivery
Sent: Wednesday, January 08, 2014 8:28 AM
Subject: Re: Water Pipes

We will be there today!

On Tuesday, January 7, 2014, General Delivery wrote:

Hi Terry,

I tried to phone but did not get an answer. Currently there is no hot water as I believe the feed / outlet pipes have frozen. There IS cold water so the issue probably is that the pipes were run externally and were not properly re-routed to accommodate the new location. Apparently my concerns were well founded when Roger replaced the water heater a few years back. HELP! I know bunches about IT but not so much about how to solve this problem.

Thanks!

Gerald

Gerald J. Nagy
300 Timber Ridge Drive
West Columbia, South Carolina 29169
Phone: 803.791.3438 (home)

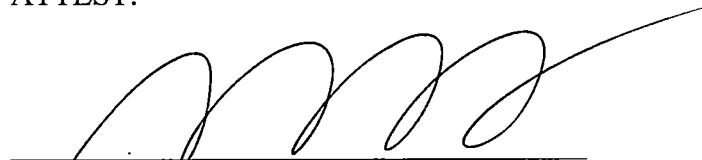
CERTIFICATE OF SERVICE

I, Gerald J. Nagy, hereby attest and affirm that on this date, April 09, 2018, I served the within and foregoing MOTION FOR CLARIFICATION AND INSTRUCTION FROM THE COURT, 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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