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STATE OF SOUTH CAROLINA
In The Court Of Appeals

RECEIVED

APPEAL FROM LEXINGTON COUNTY
R. Knox McMahon, Circuit Court Judge

JAN 24 2019

SC Court of Appeals

Appellate Case No. 2018-001387

Patricia LutzAppellant

v.

Eastpoint Properties, LLC and Scollon Family Partnership, LLC.....Respondents

**RESPONDENTS EASPOINT PROPERTIES, LLC AND
SCOLLON FAMILY PARTNERSHIP, LLC'S
MOTION TO DISMISS**

Respondent Eastpoint Properties, LLC and Respondent Scollon Family Partnership, LLC (collectively "Respondents") hereby move this Honorable Court for an Order dismissing the appeal of Appellant Patricia Lutz ("Appellant") pursuant to Rule 260(a), SCACR as she has failed to comply with the applicable South Carolina Appellate Court Rules. Specifically, she has failed to comply with Rule 208(a), SCACR, and she has also failed to order the entire transcript of the trial of this matter from which she appeals or gained Respondent's agreement to do otherwise as required by Rule 207(a), SCACR.

In support of the Motion, Respondents would show that Appellant represented to the Court that she received the transcript of the trial of this matter (or a portion thereof as explained below) on December 14, 2018 as shown on her correspondence to the Clerk of Court for the South Carolina Court of Appeals ("Clerk") of even date. A copy of Appellant's December 14, 2018

correspondence is attached hereto as **Exhibit A**. Under Rule 208(a), SCACR, Appellant had thirty (30) days after receiving the transcript to serve one copy of her initial brief on all parties to the appeal and file the same with the Clerk along with a proof of service. See Rule 208(a), SCACR. Accordingly, Appellant had until January 13, 2019 to serve her initial brief upon the undersigned as Respondents' counsel and to file with same with the Clerk along with a proof of service. As January 13, 2019 was a Sunday, Appellant had until January 14, 2019 under Rule 263(a), SCACR to file and serve her initial brief. As shown on the Affidavit of Taylor A. Peace, Esq. attached hereto as **Exhibit B**, Appellant has not served upon him, as attorney for Respondents, her initial brief nor does it appear that one has been filed with the Clerk (See **Exhibit B**).

Respondents would also show that Appellant failed to order the entire transcript of the trial of this matter as shown on her Form 11 filed on October 4, 2018 that is attached hereto as **Exhibit C**. She was required to do so by Rule 207(a), SCACR. Also, as required by Rule 207(a), SCACR, she did not obtain an agreement from Respondents to exclude a portion of the transcript. (See **Exhibit B**).

As Appellant has failed to comply with the applicable South Carolina Appellate Court Rules, Respondents ask that her be dismissed.

Respectfully submitted,



M. Alan Peace (S.C. Bar No. 4384)
Taylor A. Peace (S.C. Bar No. 100206)
Harrell, Martin & Peace, P.A.
P.O. Box 1000
Chapin, South Carolina 29036
(803) 345-3353
*Attorneys for Respondents Eastpoint Properties,
LLC and Scollon Family Partnership, LLC*

January 23, 2019
Chapin, South Carolina

51 BEAR CREEK RD.
LTI MTN SC 29075
12-14-2018

S.C. SUPREME COURT
COURT OF APPEALS
COLUMBIA SC

RE: CASE NUMBER 2018-001387

PATRICIA LUTZ
V

EAST POINT PROPERTIES AND
SCOLLON FAMILY PARTNERSHIPS

HAND DELIVERED

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DEC 14 2018

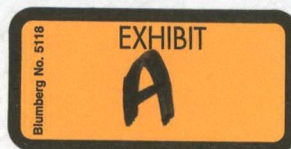
SC Court of Appeals

DEAR MADAM CLERK COURT OF APPEALS,
S.C. SUPREME COURT:

TODAY I RECEIVED A COPY OF THE TRANSCRIPT FOR THE ABOVE
REFERENCED CASE FROM MS. BETHANIE CREPPON.

PLEASE NOTIFY ME OF ANY DEVELOPMENTS WITH THE
CASE. I HAVE BEEN COMMUNICATING WITH MS. JESSICA LUCAS
AT THE S.C. SUPREME COURT OF APPEALS.

Respectfully Submitted,
Patricia Lutz



STATE OF SOUTH CAROLINA
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APPEAL FROM LEXINGTON COUNTY
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v.

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**AFFIDAVIT OF TAYLOR A. PEACE, ESQ. IN SUPPORT OF RESPONDENT
EASTPOINT PROPERTIES, LLC AND RESPONDENT SCOLLON FAMILY
PARTNERSHIP, LLC'S MOTION TO DISMISS**

PERESONALLY APPEARED before me, Taylor A. Peace, Esq., who, after being duly sworn, deposes and says as follows:

1. I am over the age of eighteen (18) and have personal knowledge of the facts set forth herein.
2. I am an attorney licensed to practice law in the State of South Carolina, and I have been doing so since 2011.
3. I am the attorney for Respondent Eastpoint Properties, LLC and Respondent Scollon Family Partnership, LLC (collectively "Respondents").
4. I received correspondence from Appellant Patricia Lutz ("Appellant") dated December 14, 2018 that was filed with the Clerk of Court for the South Carolina



Court of Appeals (“Clerk”) wherein she informed the Clerk that she received the transcript of the jury trial that occurred in this matter.

5. The Clerk marked the correspondence as being received on December 14, 2018.
6. Appellant failed to advise the Clerk that the transcript she received was not of the entire trial proceeding from which she appeals as required by Rule 207(a), SCACR. She intentionally did not order the opening statements of counsel for Appellant and Respondents and the closing statements of counsel for Appellant and Respondents.
7. Appellant did not reach out to me in an attempt to reach an agreement to leave these portions of the trial transcript out as required by Rule 207(a) SCACR.
8. As of January 23, 2019, I have not received a copy of Appellant’s initial brief. Under Rule 208(a)(1), SCACR, Rule 262(b), SCACR, and Rule 263(a), SCACR, I am informed and believe Appellant was required to serve her initial brief upon me as counsel for Respondents by January 14, 2019.
9. On January 23, 2019, I performed an internet search and visited the webpage related to above captioned matter within the South Carolina Appellate Case Management System (<https://ctrack.sccourts.org/public/caseView.do?csIID=67965>). A printout from the website as of January 23, 2019 is attached hereto as **Exhibit 1**.
10. As of January 23, 2019, it does not appear that Appellant has filed her initial brief with the Clerk.

DEPONENT FURTHER SAYETH NOT.

[signature line next page]

Taylor A. Peace

Taylor A. Peace, Esq.

SWORN to before me this 23rd
day of January, 20 19

Rebecca D. Baker (I.S.)

Notary Public for South Carolina

My Commission Expires:



CLERK'S OFFICE
SUPREME COURT
COURT OF APPEALS

South Carolina Appellate Case Management System

C-Track, the browser based CMS for Appellate Courts

Appellate Case No. ...

- Cases
- Case Search
- Participant Search

Disclaimer: The information and documents available here should not be relied upon as an official record of action. Only filed documents can be viewed. Some documents received in a case may not be available for viewing. Some documents originating from a lower court, including records and appendices, may not be available for viewing.

Case Information: 2018-001387

Court:	Court of Appeals	Classification:	Appeal - Common Pleas - Other
Short Title:	Patricia Lutz v. Eastpoint Properties, LLC View Full Title	Case Status:	Initial Briefing
Consolidated:			
Filed Date:	07/24/2018	Oral Argument Date:	
Disposition Date:		Disposition Type:	
Remittitur Date:			
Lower Court or Tribunal:	Lexington (2013CP3200871)		

- Party Information

Appellate Role	Party Name	Former	Attorney(s)
Appellant	Patricia L. Lutz	N	Self Represented
Respondent	Eastpoint Properties, LLC	N	Taylor Anthony Peace M. Alan Peace
Respondent	Scollon Family Partnership, LLC	N	Taylor Anthony Peace M. Alan Peace

Views

Display:

Filed Date	Event Information	Doc
01/22/2019	Correspondence - Outgoing (Appellant's Initial Brief Overdue)	
12/14/2018	Transcript Documents - Transcript Delivered - Direct Appeal	
11/30/2018	Transcript Documents - Other Correspondence (Appellants letter to court reporter regarding payment for transcript)	
10/12/2018	Transcript Documents - Other Correspondence	
10/10/2018	Correspondence - Outgoing (letter directing appellant to notify court in writing upon receipt of transcript)	
10/04/2018	Transcript Documents - Transcript Ordered (Appellants second letter to court reporter requesting transcript)	
10/01/2018	Correspondence - Outgoing (Transcript overdue letter)	
07/27/2018	Correspondence - Outgoing (Notice of Appeal initial letter)	
07/24/2018	Transcript Documents - Transcript Ordered	
07/24/2018	Notice of Appeal (Civil) - Initial	



FORM 11
LETTER ORDERING TRANSCRIPT FROM COURT REPORTER

October 4, 2018

RECEIVED
OCT 04 2018
SC Court of Appeals

Bethanie Creppon
Post Office Box 85411
Lexington, South Carolina 29073

RE: Patricia Lutz Appellate v Eastpoint Properties, LLC and Scollon Family Partnership, Case No. 2013-CP-32-0871 and also under 2013-CP-32-00817 and current the SC Supreme Court Appellate Case number is 2018-001387

Dear Bethanie:

On June 25-27, the above case was tried before the Honorable Knox McMahan Court of Common Pleas Judge, in Lexington County. My records indicate that you were the court reporter for this case.

I request that you provide me with a transcript of the proceedings. Please transcribe the entire record [except for the following parts:

- (1) Opening statements of counsel for appellant and respondent
- (2) Closing arguments of counsel for appellant and respondent

I agree to pay the per page charge for this transcript as provided by Rule 607, SCACR.

Sincerely,
Patricia Lynn Lutz
51 Bear Creek Rd
Little Mountain SC, 29075
(803) 391-2944



cc: Taylor Anthony Peace, Esquire
Allen Peace, Esquire
Lexington County Common Pleas Court
S.C. Court Administration
Clerk, Court of Appeals [Supreme Court]



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Patricia LutzAppellant

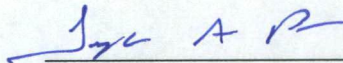
V

Eastpoint Properties, LLC and Scollon Family Partnership, LLC.....Respondents

PROOF OF SERVICE

I hereby certify that I have served a copy of **Respondent Eastpoint Properties, LLC and Respondent Scollon Family Partnership, LLC's Motion to Dismiss** in the above referenced case on January 23, 2019, on the following by causing a copy to be delivered via the U.S. Postal Service to Counsel to the addresses shown below:

Patricia Lutz
51 Bear Creek Road
Little Mountain, South Carolina 29075



M. Alan Peace (S.C. Bar No. 4384)
Taylor A. Peace (S.C. Bar No. 100206)
Harrell, Martin & Peace, P.A.
P.O. Box 1000
Chapin, South Carolina 29036
(803) 345-3353
*Attorneys for Respondents Eastpoint
Properties, LLC and Scollon Family
Partnership, LLC*

HARRELL, MARTIN & PEACE, P.A.

ATTORNEYS AND COUNSELORS AT LAW

135 Columbia Avenue

Post Office Box 1000

Chapin, South Carolina 29036

TELEPHONE: 803-345-3353

FAX: 803-345-9171

harrellmartinpeace.com

L.K. "Trey" Harrell, III
Jeremy C. Martin
*M. Alan Peace ***
Taylor A. Peace
Andrea "Andi" Cornelison

*Robert W. Dibble, Jr. **
*William Jennings (Bill) Buchanan **
*Donald W. Tyler **
*Thomas B. Jackson, III **

**Of Counsel*
***Certified Mediator/Arbitrator*

January 23, 2019

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RECEIVED

JAN 24 2019

SC Court of Appeals

Re: **Patricia Lutz v. Eastpoint Properties, LLC and Scollon Family Partnership, LLC**

Appellate Case No.: 2018-001387

Case No. 2013-CP-32-0871

Our File No.: 3347.28229/MAP

Dear Ms. Kitchings:

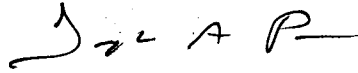
Our law firm represents the Respondents Eastpoint Properties, LLC and Scollon Family Partnership, LLC, in the above referenced matter. Enclosed please find an original and seven (7) copies of Respondent Eastpoint Properties, LLC and Respondent Scollon Family Partnership, LLC's Motion to Dismiss. Also enclosed is our firm's check in the amount of \$50.00 for the filing fee. Please file the original and copies and return a clocked copy to me in the self-addressed envelope provided.

By copy of this letter, I am serving Appellant Patricia Lutz with the same.

Thank you for your assistance with this matter.

Sincerely,

HARRELL, MARTIN & PEACE, P.A.

A handwritten signature in black ink, appearing to read 'Taylor A. Peace', with a stylized flourish at the end.

Taylor A. Peace, Esquire

MAP/tsm
Enclosures

cc: Patricia Lutz