

STATE OF SOUTH CAROLINA
IN THE
COURT OF APPEALS

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FEB 11 2019

SC Court of Appeals

Appeal from the Court of Common Pleas
For Berkeley County
Honorable Diane S. Goodstein, Circuit Court Judge
Civil Action No.: 2017-CP-08-2059
Appellate Case N.: 2019-000137

DAMAIRYS MIRABENT,
also known as Damairys Rigoroso,

Appellant,

v.

OLD RICE RETREAT AT CANE
BAY PLANTATION PROPERTY
OWNERS ASSOCIATION, INC.,

Respondent.

RESPONDENT'S MOTION TO DISMISS APPEAL

John J. Dodds, III
SC Bar No.: 1707
858 Lowcountry Blvd., Suite 101
Mount Pleasant, SC 29464
Telephone: 843.881-6530
Telecopier: 843.881-5433
E-Mail: john@cisadodds.com
ATTORNEYS FOR RESPONDENT

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT OF APPEALS:

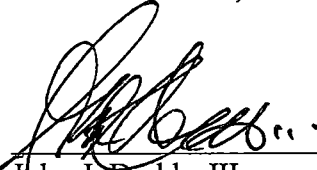
COMES NOW the Respondent, Old Rice At Cane Bay Plantation Property Owners Association, Inc. ("POA"), pursuant to Rule 240 of the South Carolina Appellate Court Rules, and respectfully requests this Court of Appeals to dismiss the Appeal filed by Appellant.

The basis for this motion is that Appellant's counsel was served with the Order Granting Plaintiff's Motion for Summary Judgment and Awarding Attorney Fees and Costs on December 20, 2018 via Notice of Electronic Filing [NEF] and failed to file and serve the Notice of Appeal within thirty (30) days as required pursuant to Rule 203 of the South Carolina Appellate Court Rules, as more particularly set forth in Respondent's counsel's Affidavit in Support of Motion to Dismiss.

Respectfully submitted:

CISA & DODDS, LLP

By:



John J. Dodds, III

SC Bar No.: 1707

858 Lowcountry Blvd., Suite 101

Mount Pleasant, SC 29464

Telephone: 843.881-6530

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E-Mail: john@cisadodds.com

ATTORNEYS FOR RESPONDENT

Mount Pleasant, South Carolina

7 February 2019.

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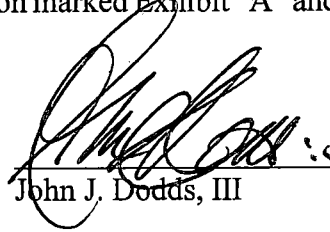
**AFFIDAVIT IN SUPPORT OF
RESPONDENT'S MOTION TO DISMISS APPEAL**

PERSONALLY APPEARED before me, John J. Dodds, III ("Affiant"), who, first
being duly sworn, deposes and says as follows;

ONE: That your Affiant served as counsel for Respondent in Case No. 2017-CP-08-2059
in the Court of Common Pleas for Berkeley County;


TWO: That the Honorable Diane S. Goodstein issued the Order Granting Plaintiff's Motion
for Summary Judgment and Awarding Attorneys Fees and Costs ("Order") in Case No. 2017-CP-08-
2059 on December 20, 2018; and

THREE: That your Affiant and Respondent's counsel were served with the Order on December 20, 2018 via Notice of Electronic Filing [NEF] as evidenced by the attached Notice of Electronic Filing [NEF] and Certificate of Electronic Notification marked Exhibit "A" and incorporated herein by express reference.

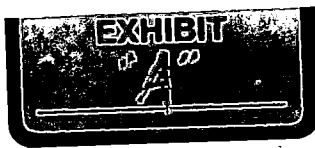


John J. Dodds, III

Sworn to before me this
7th day of February, 2019.



Peggy S. Belbusti
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 02/11/2026



***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2017CP0802059

Official File Stamp:	12-20-2018 03:03:36 PM
Court:	CIRCUIT COURT Common Pleas Berkeley
Case Caption:	Old Rice Retreat At Cane Bay Plantation Property Owners Asso VS Damairys Mirabent
Document(s) Submitted:	Order/Summary Judgment Order/Summary Judgment
Filed by or on behalf of:	Diane Schafer Goodstein

This notice was automatically generated by the Court's auto-notification system.

The following people were served electronically:

Karen Marie DeJong for Damairys Mirabent et al
John Joseph Dodds, III for Old Rice Retreat At
Cane Bay Plantation Property Owners Asso

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

ELECTRONICALLY FILED - 2018 Dec 20 3:03 PM - BERKELEY - COMMON PLEAS - CASE#2017CP0802059

Certificate of Electronic Notification

Recipients

Karen DeJong - Notification transmitted on 12-20-2018 03:03:49 PM.

John Dodds - Notification transmitted on 12-20-2018 03:03:49 PM.

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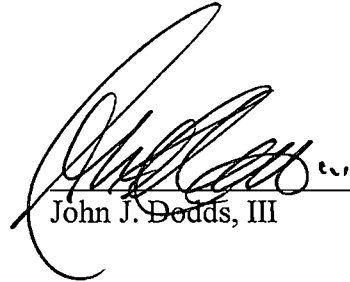
Respondent.

**PROOF OF SERVICE FOR
RESPONDENT'S MOTION TO DISMISS APPEAL**

John J. Dodds, III
SC Bar No.: 1707
858 Lowcountry Blvd., Suite 101
Mount Pleasant, SC 29464
Telephone: 843.881-6530
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E-Mail: john@cisadodds.com
ATTORNEYS FOR RESPONDENT

I, John J. Dodds, III, Esquire, hereby certify that on **7 February 2019**, I served a copy of the Respondent's Motion to Dismiss Appeal and Affidavit In Support Of Motion To Dismiss Appeal submitted by Respondent, Old Rice Retreat at Cane Bay Plantation Property Owners Association, Inc., on counsel for the Appellant via the United States Mail, postage pre-paid, and addressed as follows:

Karen M. DeJong, Esquire
DeJong Law Firm, LLC
222 West Coleman Blvd., Ste. 110
Mount Pleasant, South Carolina 29464



John J. Dodds, III

Mount Pleasant, South Carolina

7 February 2019.

CISA & DODDS, LLP
ATTORNEYS AND COUNSELORS AT LAW
858 Lowcountry Boulevard, Suite 101
Mt. Pleasant, South Carolina 29464
Telephone (843) 881-6530 Fax (843) 881-5433

FRANK M. CISA
JOHN J. DODDS, III

frank@cisadodds.com
john@cisadodds.com

7 February 2019

VIA U.S. REGULAR MAIL

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

RECEIVED
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SC Court of Appeals

Re: **Damairys Mirabent, also known as Damairys Rigoroso v. Old Rice Retreat at Cane Bay Plantation Property Owners Association, Inc.**
Appeal from Berkeley County Court of Common Pleas
Case Action No.: 2017-CP-08-2059
Appellate Case Tracking No.: 2019-000137

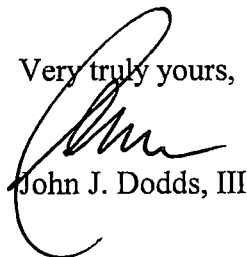
Dear Ms. Kitchings:

Pursuant to Rule 240, *SCACR*, please find the original and seven (7) copies of a **Motion to Dismiss Appeal and Affidavit In Support of Motion to Dismiss Appeal** in the above-referenced appellate matter. I also enclose the original and one (1) copy of the **Proof of Service** indicating service of the **Motion to Dismiss Appeal and Affidavit In Support of Motion to Dismiss Appeal** upon counsel for Appellant. Finally, I enclose our firm check in the amount of \$25,000 as payment for the filing fee.

I would greatly appreciate you filing the **Motion to Dismiss Appeal** and **Affidavit in Support of Motion to Dismiss Appeal** and the **Proof of Service** with the Court of Appeals and returning a date stamped copy of each to my attention in the enclosed self-addressed, stamped envelope.

If you need anything else or I otherwise may be of assistance to you or to the Court of Appeals regarding this matter or any other, please feel free to contact me at your convenience. My direct telephone number is (843) 881-6530, direct telecopier is (843) 881-5433, and the e-mail is john@cisadodds.com.

Very truly yours,


John J. Dodds, III

Enclosures
cc w/encl: Karen M. DeJong, Esquire

CISA & DODDS, LLP
ATTORNEYS AND COUNSELORS AT LAW
858 LOWCOUNTRY BOULEVARD, SUITE 101
MT. PLEASANT, SOUTH CAROLINA 29464

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