

95632

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable Deadra L. Jefferson, First Judicial Circuit
The Honorable Edgar W. Dickson, First Judicial Circuit
Honorable Maite Murphy, First Judicial Circuit

RECEIVED
AUG 21 2019
SC Court of Appeals

Case No. 2016-CP-18-1706
Appellate Case No. 2018-002185

Molly M. Morpew

Appellant

v.

Stephen Dudek, Doreen Cross, Carolina One,
Carolina One, Susan Nicholson, Woody Law
Firm, Carrie Boyer, First Federal, Allison
Williams, David A. Collins, Michael Scarafile

Respondents

APPELLANTS'S MOTION FOR LEAVE TO FILE ITS OPPOSITION TO RESPONDENTS'
MOTION TO DISMISS

Molly M. Morpew, pro se
45 Lullwater Dr. #1416
Richmond Hill, GA 31324
(843) 514-7299

Appellant, Molly M. Morphey (hereafter "Morphey"), hereby respectfully asks this court for permission to allow to file its response to Respondents' Motion to Dismiss, pursuant 240(e) for reasons stated below.

FACTS AND PROCEDURAL HISTORY

In 2012, Stephen Dudek and Doreen Cross (herein known as "Dudeks") entered into a real estate sales contract with the seller, a non-party to this lawsuit. Sixteen days after their sales contract expired and the Dudeks failed to perform or close escrow, Morphey entered into contract for the same property with the sellers. A month later, and exactly when the Dudeks gained knowledge of another buyer, they filed a lis pendens to prevent the sale. Four (4) days later, they initiated litigation against the sellers to enforce their sales contract (Ref. Civil Case No. 2013-CP-00074). Two (2) weeks later, Appellant initiated litigation to enforce her contract (Ref. Civil Case No. 2013-CP-00183). At trial, the Respondents testified overall that the Dudeks performed all conditions of their sales contract or all conditions precedent to compel specific performance or precedent to the sellers' performance and were ready, able and willing to tender payment for said property.

Several months after the trial and several months before the trial court's decision, the sellers (pro se) discovered evidence that proved contrary to the Respondents' testimony/evidence and presented its' arguments and documented evidence to the trial court as their closing statement in a petition filed in September 2014. The trial judge, the Honorable James E. Chellis, Master-in-Equity, Dorchester County submitted an email to all parties or their counsel stating he was not going to consider the evidence or closing statement of the pro se party, only the closing statements of the attorneys (or represented parties). Appellant was awarded specific performance, but second

to the Dudeks by decision of Judge Chellis. Though Appellant and sellers appealed the trial court's decision granting the Dudeks specific performance in appellate case number 2014- 002633, presenting argument and the documented evidence clearly showing the Dudeks failed all rules, statutes, maxims or precedents of law and equity, this Court ultimately affirmed the decision of the trial court in 2017 but without its own view of the preponderance of the evidence, instead under the standard of review, "their broad scope of review does not require an appellate court to disregard the findings below or ignore the fact that the trial judge is in the better position to assess the credibility of the witnesses."

The case underlying this appeal, filed in 2016 and months before the decision of this Court in the original case, arises out of Appellant's allegations that both before, during and after trial of the above matter, all of the Respondents here perpetrated a fraud on both her and the court by way of perjury, suborning perjury, forgery, conspiracy, fraudulent misrepresentations and intentional non-disclosure of material facts and documentation critical to the Dudeks ability to compel specific performance and equally critical to the trial court's inherent power or ability to adjudicate specific performance in favor of the Dudeks. Though discovery ensued and motions to compel discovery were issued, the Respondents have failed or intentionally failed to provide requested discovery. On November 13 and 15, 2018, the Honorable Judge Maite Murphy entered orders granting motions to dismiss or orders for summary judgment in favor of all Respondents and dismissing the underlying case in full. On December 12, 2018, Appellant filed a notice of appeal in this Court, in which 15 Order(s) were subject to appeal¹. Appellant has appealed 10 of those orders.

On July 1, 2019, Respondents filed a Motion to Dismiss, Appellant's Fraud appeal, in its entirety, and also filed a separate motion to withdraw/substitute counsel, thus pursuant Rule 240(b)

¹ Appellant noticed the appeal of the Order(s) of three (3) judges and seven (7) dates, making a total of 15 orders subject to appeal.

both motions independently tolled the time schedule of any proceeding in the court until disposition of the motion(s).

On July 29, 2019 Appellant filed its opposition of Respondents' motion to dismiss along with a letter to this Court requesting permission to file the late response.

On August 12, 2012, this court granted Respondents' motion to substitute counsel. Respondents' motion to dismiss is currently pending.

Pursuant this court's letter of August 12, 2019 requiring Appellant files a motion requesting leave to file its late response to Respondents' Motion to Dismiss, Appellant submits this Motion.

ARGUMENT

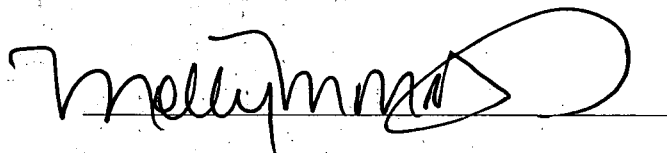
Respondents filed its motion to dismiss and a motion substituting counsel on July 1, 2019, thereby pursuant South Carolina Appellate Case Rule 240(b), tolled the time schedule of any proceeding in the court until disposition of the motions. Based on the rules of this court, time to file responses to the motions was tolled or not due until disposition, particularly disposition of a motion substituting counsel. An order granted substitution of counsel was filed August 12, 2019. Based under this assumption, Appellant's response to Respondents' motion to dismiss isn't due until August 27. Appellant filed its response on July 29, 2019.

If Appellant is mistaken and this assumption is incorrect, Appellant respectfully requests leave to file late its response to the Respondents' motion to dismiss. Appellant states it served and filed said response as soon as it was possible, as outline in its letter to this Court also filed July 29, 2019. Along with its response, Appellant submitted a letter to this Court asking for leave to file a late response due to a life and death family situation in Tallahassee, Florida between the dates of July 5 and July 21, 2019 (Exhibit A, Letter to Court).

Appellant further shows that allowing the late response has not prejudiced the Respondents as the case was held in abeyance from July 1 through August 12, 2019 by the Respondents themselves. Further, Appellant's response was served on July 25 and received by this Court on July 29, 2019, two (2) weeks before the motions that held this appeal in abeyance were dispositioned.

CONCLUSION

Based on the reasons above and good cause, Appellant respectfully requests leave to file late (filed 14 days late if time was not tolled) its response to Respondents' Motion to Dismiss.

A handwritten signature in black ink, appearing to read 'Molly M. Morphey', is written over a horizontal line.

Molly M. Morphey, Appellant pro se
45 Lullwater Dr. Unit #1416
Richmond Hill, GA 31324

July 21, 2019

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29211

RECEIVED
JUL 29 2019
SC Court of Appeals

Re: Appellate Case 2018-002185
Molly M. Morphew v. Stephen Dudek, Doreen Cross, et al.

Dear Ms. Kitchings:

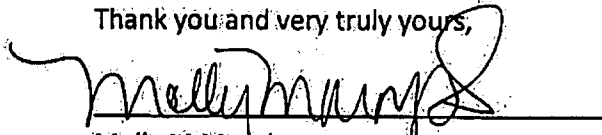
Please find enclosed APPELLANT'S OPPOSITION TO RESPONDENTS' MOTION TO DISMISS, to be recorded and filed.

Also enclosed is a copy of above to be kindly recorded and returned in the self-addressed, stamped envelope.

Pursuant Rule 240, I understand the response was to be filed within 10 days (15 days including mailing in this instance) of the service date of the motion. Service date was July 1, making the filing due on July 15. Normally I would have met this deadline, but I was tending to a very critical (life and death) family emergency in Tallahassee, FL, starting July 5 and ending July 21. Due to my unavailability to address the court proceeding during this time, and given that this response has been completed and mailed within 3 days of my return, I respectfully ask this Court for leave to file the late response due to good cause shown.

If this Court requires details or additional proof of said good cause I will be happy to do so, but only ask leave to submit the details solely to this Court for review as the situation was very personal and private and neither would the circumstances directly affect, nor does the family member have a connection or affiliation to, these proceedings.

Thank you and very truly yours,



Molly M. Morphew, pro se
45 Lullwater Dr. Unit #1416
Richmond Hill, GA 31324
843-514-7299

Cc: Amy L. Neuschafer, Esq.
Amy B. Hill, Esq.
Steven L. Smith, Esq.
David A. Collins, pro se

Exh. A

STATE OF SOUTH CAROLINA
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Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served the Appellant's MOTION FOR LEAVE TO FILE ITS OPPOSITION TO RESPONDENTS' MOTION TO DISMISS and Certificate of Service, on the Respondents by depositing a copy of it in the United States Mail, postage prepaid, on August 17, 2019, addressed to their respective attorney of record or to their last known address on record as indicated below:

Steven L. Smith, Esquire
P.O. Box 40578
Charleston, SC 29423-0578

Attorney for Respondents:

Stephen Dudek
Doreen Cross
Susan Nicholson
Michael Scarafile
Carolina One

David A. Collins, pro se
P.O. Box 30052
Charleston, SC 29417
Respondent, pro se

Amy L. Neuschafter, Esquire
Collins & Lacy, PC
11945 Grandhaven Drive, Ste D
Murrells Inlet, SC 29576

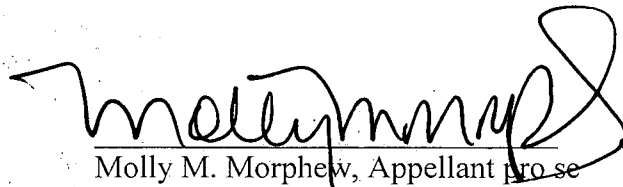
Attorney for Respondents:

Carrie Boyer
Woody Law Firm

Amy L. B. Hill, Esquire
Gallivan, White & Boyd, PA
P.O. Box 7368
Columbia, SC 29202-7368

Attorney for Respondents:

Allison Williams
First Federal Bank (aka South State)



Molly M. Morphey, Appellant pro se
45 Lullwater Dr. #1416
Richmond Hill, GA 31324
(843-514-7299)

August 16, 2019
Richmond Hill, GA

August 16, 2019

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29211

Re: Appellate Case No. 2018-002185
Molly M. Morphew v. Stephen Dudek, et. al

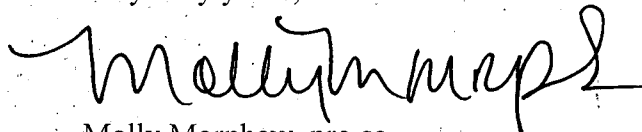
Dear Ms. Kitchings:

Please find enclosed an original and six (6) copies of the APPELLANTS'S MOTION FOR LEAVE TO FILE ITS OPPOSITION TO RESPONDENTS' MOTION TO DISMISS and Certificate of Service, to be recorded and filed.

Also enclosed is a said copy of above to be kindly recorded and returned in the self-addressed, stamped envelope and a filing fee of \$50.00.

Thank you for your assistance. Should you have any questions, please do not hesitate to contact me.

Very truly yours,



Molly Morphew, pro se

Cc: Steven L. Smith, Esq.
Amy L. Neuschafter, Esquire
Amy L. B. Hill, Esquire
David A. Collins, pro se

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AUG 21 2019

SC Court of Appeals

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TO: HON. JENNY ABBOTT KITCHINGS
SOUTH CAROLINA COURT OF APPEALS
1015 SUMTER ST
COLUMBIA SC 29201-3726

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