

**IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM DORCHESTER COUNTY
Deadra L. Jefferson, Circuit Court Judge
Edgar W. Dickson, Circuit Court Judge
Maite Murphy, Circuit Court Judge

RECEIVED
Jan 14 2021
SC Court of Appeals

Case No.: 2016-CP-18-01706
Appellate Case No.: 2018-002185

Molly M. Morphew, Appellant

v.

Stephen Dudek, Doreen Cross, David Collins,
Allison Williams, First Federal, Michael Scarafile,
Susan Nicholson, Carolina One Real Estate,
Carrie Boyer, and Woody Law Firm, Respondents

**RESPONDENTS’ RETURN TO APPELLANT’S MOTION FOR EXTENSION AND
AMENDMENT OF RESPONDENTS’ DESIGNATION OF MATTER**

Respondents Stephen Dudek, Doreen Cross, Michael Scarafile, Susan Nicholson, and Carolina One Real Estate (the “Respondents”) respectfully submit this Return to the Appellant’s Motion for Extension and Amendment of Respondents’ Designation of Matter (“Motion), and they request that the Appellant’s Motion be denied.

With respect to the Respondents, the Appellant makes three arguments in support of her Motion. First, she argues that “the Respondents fail to clearly identify [sic] what they desire to have included in the Record on Appeal.” (Motion, p. 2). Second, she argues that she is uncertain about the identity of the “First Federal File,” which is listed on the Respondents’ designation of

matter. (Id., p. 3). Third, she argues that the Respondents' actions "cause Appellant *substantial* undue effort and costs [emphasis original]."

As to the Appellant's first argument, the Respondents' designation of matter, which was attached to the Motion, specifies in detail what is being requested. With the exception of number 11, which designates the First Federal File and which will be discussed separately below, the Respondents' designation of matter includes a case number or appellate case number for each requested item. In many of the designations, the Respondents included a date, to further qualify the items requested. There is nothing further the Respondents could do to identify the items they listed on their designation of matter.

As to the Appellant's second argument, the Appellant is making a blatant misrepresentation to this Court. She states in her Motion that the Respondents' designation of matter "includes 'First Federal File with Transmittal Letter.' What file are they referencing?" It is ironic that the Appellant's underlying case is based on alleged fraud on the court, when she has made such a disingenuous statement to this Court. The First Federal File is and continues to be the Appellant's alleged evidence that the Respondents perpetrated a fraud on the lower court back in 2014. In her complaint in the underlying action, she alleged that she subpoenaed First Federal, that she followed up with First Federal about the subpoena, and that she finally received a response to the subpoena the day before trial. (Ex. 1, ¶¶ 60-62). In her complaint, she is referencing the exact file included in the Respondents' designation of matter. Further, the file was discussed at length in the Appellant's deposition. (Ex. 2). Near the beginning of the deposition, the Respondents' counsel asks a very simple question, "What wrong do you think occurred for you to file a lawsuit?" (Ex. 2, p. 32:19-20). After going on for several pages, the Appellant testified that "[s]ome information came out that [the Ferros] thought about and saw, and they filed like a petition motion..." (Id. at

p. 35:11-13). This testimony syncs with the Appellant's recount in her initial brief. (Appellant's Initial Br., p. 6-7) (stating, [i]t was also revealed that the Defendants Ferro had also discovered validated evidence after trial and presented it to the Master in their closing statements via Petition to the court before he made his decision."). During her deposition, the Respondents' attorney then asked the Appellant to what information she is referring. (Ex. 2, p. 36:6-7). She responded, "[i]t was the First Federal File." (Id. at p.36:12). Deposing counsel and the Appellant then continued to discuss the First Federal File for the next 20 pages of the deposition transcript. (Ex. 2). The entire file was made an exhibit to her deposition. It is unquestionable known to her, and, other than a delay tactic, the Respondents can think of no conceivable reason as to why the Appellant has made this argument. The Respondents take exception to such a blatant misrepresentation to this Court.

As to her last argument, her alleged expenses associated with her appeal are not the Respondents' concern. The Appellant made the decision to file four overlapping lawsuits associated with the property in question. The Appellant has elected to appeal her duplicative lawsuits. In total, she has filed four lawsuits, four appeals and two petitions for certiorari. She has chosen to contest even the smallest and most routine procedural motions and decisions at every conceivable juncture. And she has willfully dedicated 1000s of pages to issues that have been decided for more than 6 years. Her body of work is encompassed in these lawsuits and appeals, requiring a historical recount of the steps she has taken in her various lawsuits and appeals. As the Appellant, she is required to account for the volumes and volumes of records she has willfully created.

It is laughable that she complains about costs, considering the costs and expenses that the Respondents, and all the respondents in this appeal, have expended to defend the underlying action.

The reality is that they will never see a penny of this money get reimbursed, even if this Court and the Supreme Court award fees and costs. The Appellant sold any property she owned in South Carolina and now lives out of state. At one point, she at least had some form of physical connection to the property in question, owning the adjacent property. But she sold that last year. She now lobs attacks from across state lines, apparently just to cause hardship to the Respondents. She seemingly has no connection with South Carolina, other than her fight over dead legal issues.

For all of the above reasons, the Respondents respectfully request that the Appellant's Motion be denied.

SMITH | CLOSSER | WHEELER, P.A.

s/Samuel M. Wheeler

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January 14, 2021

Exhibit 1

- a. Defendant Collins responds that "his clients had loan approval but could not close because they never got a CL-100"⁸⁹.
59. June 2013, Dudek and Cross deposition held.
- a. Dudek and Cross claim they had secured lending per contract, and/or had not breached their contract and/or they had the valid contract and/or were, and were still ready, able and willing to close.
- b. Dudek and Cross failed to disclose they had been denied lending.
60. August 1, 2013, Morphew [again] subpoenas First Federal for Dudek and Cross' lending information, including files, electronic documents, e-mails/communications, etc.
- a. First Federal responds "*there were no records of any loans with that number at their institution*".
61. August 12th, 2013, Morphew's attorney makes a phone call to First Federal to verify said response(s) are correct.
- a. First Federal responds "*they could not [or would not] provide that information*".
62. June 10th, 2014, First Federal responds [unexpectedly] to the March 2013 subpoena for Dudek and Cross mortgage lending information.
63. June 11 & 12, 2014, Trial held for combined cases.
64. November 6, 2014, Order issued from court.
- a. Specific performance granted to Defendants Dudek and Cross.
65. December 6th, 2014, Morphew filed appeal with the appellate court.

⁸⁹ Per documents from Defendant Cross' files during her deposition in June, 2013, sellers obtained a CL-100 inspection on November 25th, a report on November 30th, as per Cross/Dudek requested in their sales contract.

⁹ Per Cross deposition, she received the CL-100 from Defendant Nicholson on Monday, December 3rd, 2012.

Exhibit 2

1 Q. Who represented you -- strike that.
2 Because I need some background -- strike that
3 too. Talking to myself.

4 A. Strike that too.

5 Q. What is the 2016-CP-18-1706, which is
6 the case we're here in the deposition today? If
7 you want -- if you need to see anything,
8 that's -- I should have told you that. If you
9 need to see anything or anything, this isn't a
10 memory test. If I'm looking at something and you
11 say, Steve, I don't know, let me see what you're
12 looking at, that's fine with me. I'll give it to
13 you.

14 That's the case we're here today about.
15 And there's the caption. What is that case
16 about? It's a case that you filed, but what is
17 it about?

18 A. Can you rephrase that?

19 Q. Sure. What wrong do you think occurred
20 for you to file a lawsuit?

21 A. I had a contract, was ready to close,
22 but could not close until they signed the
23 termination notice. They didn't do it. Instead,
24 they filed a lawsuit for specific performance.

25 So I filed a lawsuit for specific

1 performance on the sellers for saying that I had
2 a valid contract. And it was specific
3 performance of breach of contract. They breached
4 it. I was saying they breached their contract by
5 failing to close escrow with me.

6 Q. Okay.

7 A. Also it included that fact that I was
8 saying that they were legally obligated to sign
9 the termination agreement and that they failed to
10 do so and have -- are preventing me from closing.
11 My question -- I don't know if this is going to
12 help, Steve -- but my question all along was for
13 specific performance.

14 I asked numerous times for the
15 defendants for -- if they had proof that they had
16 secured financing and were ready, able and
17 willing to close like they stated they did when
18 they filed the lawsuit.

19 And that it wasn't them, but it was the
20 sellers who I had a contract with caused that
21 fail-to-close escrow, their breach. I'd back
22 off. I don't want to be involved in it, and I
23 don't want to do it.

24 I was told numerous times again over and
25 over by attorneys, meetings, questions. I even

1 have e-mails saying I just -- this is all I want.
2 And no one could ever -- or either couldn't or
3 wouldn't provide that. They were saying numerous
4 times they closed, that they could close.

5 They were ready. They had secured
6 financing. They -- and the sellers caused
7 them -- refused to sell and caused them not --
8 I'm like, fine. Show me, and I will back off and
9 I'm done. Put the cards on the table. I don't
10 want to do this, but I -- you know, I have a
11 contract. I want this house. Thought it was
12 going to be easy.

13 We went -- I subpoenaed information
14 several times. Asked for information, asked for
15 files -- kept saying that there was no such
16 people at the bank. They didn't have any loans.
17 There was no people.

18 I have an e-mail where my lawyer is
19 saying, hey, they're saying there's no such
20 people at this bank, but you're saying this bank
21 secured their financing. What's the deal here?
22 I answer back, secured financing. Couldn't close
23 because they didn't get a CL-100 or a clear
24 CL-100. It was the answer every time.

25 And I had so much proof. And I said,

1 this is -- something is wrong. We went to trial.
2 Of course, I can't tell you much about the trial
3 because I can -- I could if I was doing it
4 myself, but it was crazy. Next think I know, it
5 was over with. And then the Ferros -- I can't
6 speak for them. That's all. And some of this is
7 speculative, so I can't say that.

8 Q. You can go ahead. In a deposition you
9 can. In a trial you wouldn't be able to, but in
10 a deposition you can.

11 A. Some information came out that they
12 thought about and saw, and they filed like a
13 petition motion -- I'm not -- whatever they want
14 to call it, because it's a legal term.

15 And I'm getting better -- saying we
16 got -- basically they got home after coming to
17 the trial. They had to travel from Colorado --
18 and at the time I think it was Denver,
19 Colorado -- to the trial. And they got home, and
20 they had received some information and were
21 appalled.

22 Q. Were they represented by counsel?

23 A. Who, the Ferros?

24 Q. The Ferros?

25 A. No.

1 Q. And you were represented by whom?

2 A. John Massalon.

3 Q. Do you know what information the Ferros
4 got when they got home?

5 A. I can't speak for them.

6 Q. You don't know what that information
7 was?

8 A. I'm sure -- no.

9 Q. All right. You never asked them?

10 A. Well, it was -- it was the same
11 information that Mr. Massalon gave me when I went
12 on appeal. It was the First Federal file. I'm
13 sure -- or maybe not, but I -- that was
14 eye-opening.

15 MR. SMITH: Let's mark this as
16 Exhibit Number 1.

17 (Exhibit No. 1 was marked for
18 identification.)

19 Q. I'm going to show you a document that's
20 been labeled as Defendant's Exhibit Number 1 and
21 ask you if that's the document you were just
22 referring to.

23 A. No, sir.

24 Q. That's the only -- this is the John
25 Massalon First Federal file.

1 A. Oh. Oh. Oh. I was looking at this
2 actual document.

3 Q. That's a transmittal letter for John
4 Massalon on the top.

5 A. Yes. This is the document.

6 Q. And it's dated, I think, a couple days
7 before the trial or whatever. So is that
8 the file that you got?

9 A. June 10th, that's actually -- the trial
10 was June 11th at 9. Yes.

11 Q. So this is the information that was
12 transmitted to Mr. Massalon the day before trial?

13 A. I don't know.

14 Q. Are these the documents that you're
15 referring to when you talk about documents were
16 given?

17 A. Yes. First Federal file, yes. When I
18 mentioned First Federal file, this is -- and I --
19 don't quote me, because I don't -- can't look
20 through all these documents and make sure it's
21 complete or if there's something missing. But
22 if it's what I've got, yes.

23 Q. And do you know whether or not your
24 attorney had that for trial, Defendant's Exhibit
25 Number 1?

1 Q. And you were represented by whom?

2 A. John Massalon.

3 Q. Do you know what information the Ferros
4 got when they got home?

5 A. I can't speak for them.

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7 was?

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18 mentioned First Federal file, this is -- and I --
19 don't quote me, because I don't -- can't look
20 through all these documents and make sure it's
21 complete or if there's something missing. But
22 if it's what I've got, yes.

23 Q. And do you know whether or not your
24 attorney had that for trial, Defendant's Exhibit
25 Number 1?

1 A. Yes, I'm sure he did. There was some
2 items that -- there were some things referenced
3 in that.

4 Q. Have you read the transcript of the
5 trial, or do you remember the trial?

6 A. Not the whole -- I mean, I'm sure
7 vaguely -- I mean, a lot of stuff, but not
8 complete.

9 Q. A lot of the documents in Defendant's
10 Exhibit Number 1 were actually exhibits at the
11 trial, weren't they?

12 A. I don't know.

13 Q. You don't recall that?

14 A. I don't recall.

15 Q. Do you recall whether or not the First
16 Federal financing was discussed at length in the
17 original trial or the lack thereof?

18 A. At the trial, the only thing that was
19 discussed -- whether they had financing, and that
20 was their testimony that they did.

21 Q. And this First Federal file was
22 discussed at the original trial?

23 A. No.

24 Q. Do you know whether or not some of these
25 documents were used by Mr. Massalon during his

1 cross-examination?

2 A. I can't say.

3 Q. Regardless though, Mr. Massalon had it
4 the day before trial?

5 A. And Mr. Collins. He made a statement as
6 such.

7 Q. What documents did Mr. Massalon not have
8 when he went to court?

9 A. I can't speak for Mr. Massalon.

10 Q. What documents have you disclosed -- or
11 have you discovered, I should say. What
12 documents have you discovered that were not
13 provided to Mr. Massalon before trial?

14 A. I don't know.

15 Q. Are there any?

16 A. I don't know. I don't know. I can't
17 say what he received or if this was -- it was
18 complete. I just know the documents that I
19 received.

20 Q. All right. What documents did you
21 receive, and when did you receive them?

22 A. It was supposed to be the First Federal
23 file.

24 Q. When did you get it?

25 A. I asked him --

1 Q. You asked who now?

2 A. Oh, sorry. Excuse me.

3 Q. That's all right.

4 A. Mr. Massalon, for his -- he had a book.

5 And I said -- I asked him for this book, the

6 whole complete thing that he used for the trial,

7 or for after or for before. Everything he had.

8 Q. So you basically got your file back from
9 him?

10 A. Yes. Thank you.

11 Q. That's all right. And these documents
12 were in his file?

13 A. Yes.

14 Q. Are there any documents that you've
15 discovered or that have come to light that have
16 any relevancy on anything to do with this entire
17 transaction that were not in Mr. Massalon's file?

18 A. I can't say for sure.

19 Q. I assumed -- and maybe it's wrong for
20 me -- that this new case was because you had
21 found after discovered evidence that showed that
22 there was a fraud committed on the court is what
23 you alleged in your complaint.

24 Are there any documents that were not
25 given to Mr. Massalon that you've seen that

1 weren't in that file that have come to light to
2 show any kind of fraud on the court?

3 A. I don't know, if you're speaking of Mr.
4 Massalon. I don't --

5 Q. Well, how about you?

6 A. -- know.

7 Q. Have you discovered anything that your
8 attorney did not -- your attorney had a file that
9 he gave you, I guess his trial notebook; is that
10 right?

11 A. It was -- I think it was more than a
12 trial notebook. It was --

13 Q. It was the entire file?

14 A. It was, yeah, pretty much the entire
15 file.

16 Q. Is there anything that you've discovered
17 that was not in that trial notebook?

18 A. I don't know.

19 Q. Or -- I'm sorry -- was not in that file?

20 A. I can't answer that.

21 Q. You understand what I'm making sure of
22 is that there's not some after-discovered
23 document that came up after trial that's the
24 smoking gun or shows that X, Y, Z shouldn't have
25 been done or was done or -- I want to make sure

1 there's not that document out there that you've
2 discovered. Is there a document like that?

3 A. I discovered lots of documents.

4 Q. Where did you get them?

5 A. (Indicated.)

6 Q. In Mr. Massalon's file?

7 A. No. From this thing and when I went on
8 appeal.

9 Q. But was that part of Mr. Massalon's
10 file?

11 A. I don't know. He gave me a bunch of
12 information, and, I mean, I don't know if it's
13 his complete file or -- but this is what I
14 reviewed.

15 Q. Have you seen anything on appeal or any
16 other time that was not in Mr. Massalon's file?

17 A. I don't know.

18 Q. What fraud do you think was committed on
19 the court?

20 A. Well, if I had had this information that
21 I had subpoenaed --

22 Q. That was in your attorney's file?

23 A. Yes. Well, considering I'd asked for it
24 a year and a half before and the answer was no,
25 there's no such people, no such information, no

1 such files at our banking institution, no such
2 loans, no such anything -- yeah.

3 Several times, not just once. And then
4 even phone calls, the bank saying they cannot
5 give any -- cannot provide any information.

6 Q. When your client -- I'm sorry. When
7 your attorney was given those documents the day
8 before trial, did he ask for a continuance so he
9 could look into the documents?

10 A. I have no idea. There were some
11 discussions with the -- just the attorneys and
12 the judge, and they -- there was things that was
13 done. I don't -- have no idea what my attorney
14 did during those things. I was not informed.

15 Q. So if you had the documents that your
16 attorney had, what would have happened?

17 A. That's speculative. I have no idea.
18 With what I know now and how I -- what I've
19 learned and -- it would -- I would say it would
20 have been a lot different.

21 Considering me being -- I was just very
22 naive at the beginning. Had no idea. Never been
23 in a case. Trusted --

24 Q. So you would have --

25 A. I have no idea. I just don't. I'm a

1 different person from that and what I would do
2 and how I feel.

3 Q. So you would have tried the case
4 differently than Mr. Massalon?

5 A. Most likely, yes. May I make a comment?

6 Q. Sure.

7 A. Though it's -- if I know what I know
8 now, it would definitely be different. But if I
9 had had this information when I asked for it in
10 the first place, we probably wouldn't be here.

11 Q. What do you mean by that?

12 A. If I had had this when I subpoenaed it,
13 at that time.

14 Q. What would have happened?

15 A. Not after the trial.

16 Q. Well, this was given to you before -- it
17 was given to your attorney before the trial.

18 A. I understand. I understand.

19 Q. He didn't convey it to -- he didn't give
20 it to you until afterwards?

21 A. Correct.

22 Q. If this had been given to you on day
23 one, the first time -- the day after you asked
24 for it the first time, what would you have done?

25 I mean why would you not be here?

1 A. Well, I would have seen that they did
2 not meet specific performance requirements.
3 That's like a law in itself, the specific
4 performance. And that is what -- they filed a
5 lawsuit for specific performance saying they
6 met -- basically, when you file -- correct me if
7 I'm wrong.

8 If you file a lawsuit for specific
9 performance, you are saying that you are ready,
10 able and willing to close escrow at any moment,
11 at any time at that moment that you filed, and
12 that is the requirement.

13 And it is one of the biggest
14 requirements for it, unless you can prove --
15 well, no. That had -- actual requirement.
16 You're not allowed to breach, but a breach can be
17 excused if the other contracting party causes
18 your breach. But this has to be met. There's no
19 ifs, ands or buts, or you don't get to file for
20 specific performance. Law.

21 And it is specific, and it's a law in
22 itself, and it is not excused. Now, I find that
23 they were denied lending. They told in trial, we
24 secured financing. We were ready to close. We
25 did all this. And I'm saying -- and now, I mean,

1 how can you?

2 You never even had financing. You
3 didn't even complete your application. Denied.
4 Incomplete application. They got a -- they had
5 to have -- what I understand now is they had to
6 have a signed contract extension addendum in
7 order to make that contract valid. They never
8 had one. They never submitted one.

9 Whatever the deal is, it's not there.
10 They don't have it. Therefore, the bank told
11 them day one, day one when she applied on
12 December 5th, it says, we need a signed contract
13 extension addendum. You have 72 hours to provide
14 this information in order to have closing on
15 December 31st.

16 Not even December 15th or November 30th,
17 nothing. But nothing was conveyed to anybody.
18 No one even knew this information. We assume
19 when we went to trial -- I assume when we went to
20 trial, because everybody was saying it. The loan
21 officer, the subpoenas -- I mean, I -- this is
22 legal stuff.

23 So I'm thinking, I'm supposed to believe
24 what any legal document says if I've asked for
25 it, especially when I'm getting the same answer,

1 correct?

2 (David Collins entered the
3 deposition.)

4 A. So I assumed that this documentation and
5 what they're saying -- and so I think it's an
6 open and shut case. I really, really did. I
7 mean, I really felt that if they had financing --
8 you go to court. You prove it. All you have to
9 do is hand some documents over and say, here's my
10 secured financing.

11 No one could get it. No one pushed it.
12 No one -- well, the judge didn't even ask for it.
13 So -- and I've been asking for it, and I still
14 can't get it. So my thing is is I am still stuck
15 on the fact that I went to trial, and I did not
16 even have the right information to fight my
17 battle. None.

18 And all I kept hearing was, we secured
19 financing. And when you're one person against a
20 federal bank -- they had rules and regulations.
21 And I worked in a bank, and I would never have
22 thought about not telling the truth in a court.
23 I wouldn't think of that now.

24 I just -- so I said, okay. She's saying
25 they had it, but I'm still not seeing it. It's

1 reasonable. It's reasonable to be asking this
2 question. I went through a lot of money and time
3 to defend myself and -- for the house that I
4 was -- I had a contract on. I really did.

5 And it's more not the purchase
6 necessarily of the house. It's afterwards that I
7 went through having an attorney, which I thought
8 was open and shut. So I am -- that's why I'm
9 here. I find that they never met those
10 requirements that they told a judge they did.
11 They convinced a judge they did, and that's
12 called an uninformed ruling.

13 No matter what, I've asked and asked and
14 asked. And you're saying -- and David Collins is
15 saying, yes, they should have -- what would you
16 say they should have done?

17 Q. I --

18 A. You said it.

19 Q. You lost me after the first five
20 minutes. Let me ask you --

21 A. I --

22 Q. -- any of that information you just gave
23 me -- all the facts and all the documents and
24 everything else that you just discussed -- was
25 every bit of that known to your attorney before

1 the trial?

2 A. I don't know. I'd have to ask my
3 attorney that.

4 Q. Have you asked him that?

5 A. No. I'm going by what I've got and --
6 what I have and what I've got. That's what I've
7 got. I don't know if he had it before. I don't
8 know if it's complete. I'm assuming, because
9 he -- I asked for a complete file. Please
10 forgive me.

11 I -- when it comes to law, I'm finding
12 out there's nothing called truth in black and
13 white anymore. It's how it's presented, and
14 nothing is black and white. There could be a
15 law, but it can be changed. And there's all
16 this -- and I said -- so it's --

17 And I'm kind of a black-and-white
18 person. I have an e-mail where I ask Mr.
19 Massalon, please just throw our cards on the
20 table. Give them everything you got. Ask them
21 for everything they got --

22 (Reporter interruption.)

23 THE WITNESS: Oh, I'm sorry. I do
24 talk fast. Thank you.

25 A. -- and I did. I just wanted to do what

1 we had to do, and I wanted the truth. And that's
2 why I'm here. Truth and justice and my right to
3 have it -- have had a fair trial. Whatever
4 happened with the attorneys, I'm going to let a
5 judge and jury decide, if I don't have that
6 right.

7 Q. It sounds like the disconnect -- and
8 correct me if I'm wrong, but it sounds like the
9 disconnect came between you and your attorney.
10 Did your attorney have more information than you
11 had?

12 A. I can't answer that.

13 Q. Is there anything that you've discovered
14 that was not in your attorney's file that you
15 got?

16 A. I can't remember. This is so large.

17 Q. All the information that you just
18 disclosed about financing and ready to close and
19 specific performance and everything else, what --
20 was that not discussed in the original trial?

21 A. No. The only thing that they asked
22 is --

23 Q. The only thing you asked, your attorney?

24 A. Both attorneys. It was clarified by the
25 attorneys. The only -- the question was -- in

1 this trial was, you had financing. You were
2 ready to close. It was the seller's fault.
3 Therefore, my complaint gets dismissed, because
4 it's moot. Because this one -- they say they
5 come first.

6 I agree. If they could do it, they come
7 first no matter what I want. That's what was
8 the -- was litigated. Did you have financing?
9 Did you meet the requirements? Yes. Yes. Yes.
10 Yes. Did the Ferros? I've got all the evidence
11 they did meet all their -- you know, they didn't
12 breach.

13 The errors that were done on the order,
14 you know, dates and stuff, I -- so I'm sitting
15 here going, here's this, here's this, and here's
16 this. That's all I needed. And I'm going to be
17 honest, the litigation -- well, I'm going to be
18 honest anyways, but just to stress. The
19 question -- this was the only question.
20 Financing, ready to close, sellers cause of
21 failure, therefore me -- boop.

22 Q. Why didn't your attorney if he had this
23 file, which clearly he did, Defendant's Exhibit
24 Number 1, do you know why your attorney didn't go
25 through that file and talk to him about it?

1 A. I can't speak for my attorney.

2 Q. He had the opportunity to do so, didn't
3 he?

4 A. I don't know.

5 Q. Well, he had this file.

6 A. I don't know when he got it. Dates -- I
7 don't -- it could be dated that, and he gets it
8 two weeks later. I have no idea. All I know, if
9 you have any questions for the attorney, you need
10 to ask him. I don't know what he was thinking.
11 I don't know what he had, what he -- I don't even
12 know what he was going to present at the trial
13 except for some questions we went over. I had no
14 idea.

15 Q. Now, he had these documents, Defendant's
16 Exhibit Number 1. You've already testified two
17 or three times about it. He had these documents,
18 Defendant's Exhibit Number 1, the day before
19 trial, didn't he?

20 A. I don't know. Was it complete? I don't
21 know.

22 Q. Well, he had First Federal's file.

23 A. I can't tell you that. I got a file
24 from him. I don't know when he had it.

25 Q. You haven't talked to your attorney at

1 all since the trial?

2 A. No -- no, no -- well, yes, on appeal, we
3 did. When I went to do an appeal, he initially
4 filed the appeal, the notice of appeal, and I
5 took it from there.

6 Q. Has there ever been a question that Mr.
7 Massalon had First Federal's file the day before
8 trial?

9 A. I can't recall that. I don't remember
10 ever asking him that.

11 Q. All right. So the fraud on the court
12 that you -- and I'm going to go through your
13 complaint. The fraud on the court is that -- all
14 this about financing and they had it. And
15 clearly pursuant to Defendant's Exhibit Number 1,
16 in your mind, they didn't have it; is that right?

17 A. Can you repeat that?

18 Q. Sure. What this complaint is about,
19 2016 -- the case we're here today about,
20 2016-CP-18-1706, is because -- I mean, if you
21 boil it down, it's because Dudek and Cross didn't
22 have the financing and lied about it at court.

23 And if they had -- if you could have
24 proven that they didn't have financing, then you
25 would have won. Is that basically it?

1 A. I would have been able to try my case
2 fully, and then I would be satisfied. If I had
3 this information, I --

4 Q. Now, what information are you talking
5 about, if I had this information?

6 A. That they had been denied lending.

7 Q. And that's First Federal's file?

8 A. Or that what they were saying during
9 the -- basically what they were saying during the
10 trial was not true or appeared to be not true.
11 I'd have to do my due diligence, but --

12 Q. Has anything come up since the trial,
13 documents, evidence, testimony, anything, that
14 was -- that didn't occur at trial? Is there
15 something that you're pointing your finger to to
16 say, aha, they lied?

17 A. Denial letter.

18 Q. And that's in the First Federal file?

19 A. I don't know. I'd have to look in it.

20 Q. You can look. It's Defendant's Exhibit
21 Number 1.

22 A. The file that I received and saw, yes.
23 It's somewhere in here. I'd have to -- can't
24 tell you what page number or anything.

25 Q. And the transmittal letter is dated the

1 day before trial?

2 A. What transmittal letter?

3 Q. The Defendant's Exhibit Number 1.

4 June 10, 2014?

5 A. This cover sheet?

6 Q. That's a transmittal letter. Cover
7 sheet, whatever you want to call it.

8 A. It's all typed in. It's dated, yes,
9 June 10th, the day before, but I don't know when
10 he specifically received it.

11 Q. You honestly do not know when he got
12 that file, honestly? Because you told me --

13 A. Speculative is since there were some
14 items at the trial that probably came from here,
15 then, yes. But I cannot say for sure. It could
16 have been something that was handed to him
17 beforehand or just part of this or -- I have no
18 idea.

19 Q. Is there any information, any part of
20 this file, anything that he didn't have at
21 trial --

22 A. I don't know.

23 Q. -- that you've discovered since?

24 A. I can't answer that question. What I
25 discovered after, I don't know if he had it at

1 trial.

2 Q. What documents have you discovered since
3 the trial?

4 A. The denial letter. The not completing
5 the application. The -- they said they applied
6 six months before.

7 Q. How about doing me a favor.

8 A. That's it.

9 Q. Let's look through Defendant's Exhibit
10 Number 1. Take as much time as you need, and
11 tell me if there's anything other than what's in
12 Defendant's Exhibit Number 1 that you received.
13 Because if it is, I need to see it. I mean,
14 we've --

15 A. This whole -- I can't even -- I can't
16 tell you it. I'd have to get my thing and
17 compare it. I can't tell you if something's
18 missing from here unless it's something that
19 jumps out at me, which would be the denial
20 letter. But everything else, I can't -- I don't
21 know if it's complete. I'm sorry. I really
22 don't, unless I compare it to what I personally
23 received.

24 Q. Well, where is what you personally
25 received? Where are those documents?

1 A. I sent them to you.

2 Q. In that box?

3 A. No. I don't know what date --

4 Q. I can show you what I've got.

5 A. When you first -- no. When you first
6 sent the request for documents and then we went
7 to the motion to compel, and I sent three files
8 out via e-mail. And then I sent another box to
9 you.

10 Q. And that's all the documents you have?

11 A. Yes, right at this moment. But I
12 actually have more, but they are -- I have more
13 somewhere. It's been a rough few months of
14 moving around.

15 Q. All right. Normally, I'd start with the
16 damages last, but you put the damages in your
17 complaint first. So I want to go over your
18 damages. And I've got a sheet, a spreadsheet,
19 that you provided that I'm going to mark as
20 Defendant's Exhibit Number 2.

21 (Exhibit No. 2 was marked for
22 identification.)

23 A. Can I make note too that this is an
24 ongoing document? It's not a final.

25 MR. SMITH: Does everybody have a

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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Jan 14 2021

SC Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Deadra L. Jefferson, Circuit Court Judge
Edgar W. Dickson, Circuit Court Judge
Maite Murphy, Circuit Court Judge

Case No.: 2016-CP-18-01706
Appellate Case No.: 2018-002185

Molly M. Morphew, Appellant

v.

Stephen Dudek, Doreen Cross, David Collins,
Allison Williams, First Federal, Michael Scarafile,
Susan Nicholson, Carolina One Real Estate,
Carrie Boyer, and Woody Law Firm, Respondents

CERTIFICATE OF SERVICE

I certify that, on the date indicated below, I served the Respondents' Return to the Appellant's Motion for Extension and Amendment of Respondents' Designation of Matter by United States Mail, postage prepaid, or via email, where appropriate, on the following:

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January 14, 2021