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JUL 16 2021

SC Court of Appeals

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

**APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas**

**Mikell Scarborough
Master-in-Equity**

Appellate Case No. 2019-001838

SRP 2011 6 LLC..... Respondent,

v.

Alluette K. Jones.....Appellant.

**RESPONDENT’S MOTION TO DISMISS APPEAL BASED ON LACK OF COMPLIANCE
WITH COURT’S JUNE 7, 2021 ORDER AND CONTINUED LACK OF COMPLIANCE WITH
APPELLATE RULES REGARDING THE RECORD ON APPEAL AND IN THE
ALTERNATIVE TO REQUEST A STAY OF THE DEADLINES FOR RESPONDENT TO FILE
A FINAL BRIEF PENDING A CORRECT RECORD ON APPEAL**

Respondent previously filed two prior motions to dismiss this appeal on the grounds of the Appellant’s repeated non-compliance with the appellate court rules relating to the failure to file a proper record on appeal to include the specific problem that the Appellant did not put in the Record on Appeal the materials designated by the Respondent and included materials that were not designated by either party. The Court on June 7, 2021 denied those motions to dismiss, but did order Alluette K. Jones (“Appellant”) to file a proper record on appeal within 20 days and specifically ordered that it must include the materials designated by either party and not any other materials. On July 1, 2021, Appellant filed another document purporting to be the Record on Appeal but which in fact suffers from the very same problems as the last purported Record on Appeal---it does not contain the materials designated by the Respondent and contains new material not designated by either party, which is in fact entirely new material not submitted to the lower court. (In addition, the purported Record was not served on Respondent, thus it was not until the afternoon of July 13, 2021 that counsel looked on the C-Track to see that something had been filed.)

Respondent requests this appeal be dismissed on the grounds of of the Appellant's continued lack of compliance with the Appellate Court Rules and the Orders of the Court. The document the Appellant filed cannot be used as a record on appeal because it does not contain most of the documents designated by the Respondent. Respondent designated 16 separate items to be included in the record on appeal. Once again, the purported record on appeal document the Appellant provided does not include items 1-14. This is the very same point made in a prior motion and the very same documents that were not included last time. This lack of compliance appears to be willful. The Respondent even took the step of previously mailing a copy of all the documents the Respondent had designated and told the Appellant in a cover letter that it was providing them to her so she could include it in the Record on Appeal (See Exhibit A, Letter of November 16, 2020 from Andrew Sullivan Esq. to Alluette K. Jones).

In addition, the Appellant has once again included material which was not designated by either party and which is entirely new material not submitted to the lower court. The Appellant's newly filed Record on Appeal contains the affidavits of Freddie Whaley, Jr. and Rommarie Whaley which are both dated March 28, 2021. They were not listed in the Appellant's Designation of Matter which was filed over a year earlier on March 3, 2020. Not only did these affidavits not exist at the time Appellant filed her designation of matter, they also did not exist at the time of the lower court proceeding. Thus, they violate another cardinal rule which is that the Appellant rely on materials that were not submitted to the lower court.

It is noteworthy that the lack of a proper record goes back to November 2020. On December 4, 2020 the Court sent a deficiency letter noting that the Record on Appeal had not been filed by mid-November as required and gave the Appellant 10 days to file the Record. The Appellant missed that deadline. On December 17, 2020, the Appellant requested an extension of 15 days via a motion (which was not served on Respondent's counsel.) On December 30, 2020, Appellant filed another motion for extension of time requesting to serve the Record on Appeal by January 14, 2020 [sic], again not serving Respondent's counsel. Respondent filed a motion to dismiss on February 5, 2021 as the record was still not filed as of January 14, 2021. On March 8, 2021, the Appellant filed a document with a collection of

papers that is not a Record on Appeal. And on June 7, 2021, Appellant was given 20 days to file a Record on Appeal that specifically included the material designated by the Respondent and not any other material.

As a result of the Appellant not submitting a proper and complete Record on Appeal, the Respondent cannot file its final brief within 20 days of the service of the Record on Appeal because Respondent's counsel cannot cite to the page numbers for the Record on Appeal given the lack of documents. (In addition, the most recent document lacks page numbers. Although the Respondent believes that dismissal for a willful violation of the Court's previous order is warranted, Appellant must also insert page numbers on the Record on Appeal so that it can serve its purpose.)

This Court has made it very clear what the Appellant needs to do. And the Respondent has even shared with her the documents that it designated. The Appellant's willful disregard of the rules and this Court's order warrants dismissal.

CLAWSON and STAUBES, LLC

s/Timothy A. Domin

Timothy A. Domin

Bar No.: 65264

126 Seven Farms Drive, Suite 200

Charleston, South Carolina 29492-8144

Phone: (843) 577-2026

Fax: (843) 722-2867

Email: tdomin@clawsonandstaubes.com

Attorney for Respondent

July 15, 2021



Andrew M. Sullivan
Licensed in SC
asullivan@clawsonandstaubes.com

November 16, 2020

File No.: 20140012.007

VIA US MAIL AND EMAIL

Alluette K. Jones
142 Coming St
Charleston, SC 29403-6104
Alluettescafe1@gmail.com

Re: *SRP 2011-6, LLC v. Alluette K. Jones*
Appellate Case No.: 2019-001838

Dear Ms. Jones:

Pursuant to Respondent's Designation of Matter to Be Included in the Record on Appeal, please find enclosed copies of those documents referenced therein for your benefit and inclusion in the Record on Appeal to be provided to the South Carolina Court of Appeals.

If you have any questions, please feel free to contact me. Thank you for your attention to this matter.

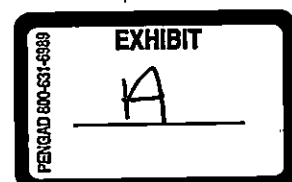
Very truly yours,

CLAWSON and STAUBES, LLC

Andrew M. Sullivan

AMS/AMS

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SRP 2011-6, LLC..... Respondent,

v.

Alluette K. Jones is the.....Appellant.

PROOF OF SERVICE

I certify that I have served RESPONDENT'S MOTION TO DISMISS APPEAL BASED ON LACK OF COMPLIANCE WITH COURT'S JUNE 7, 2021 ORDER AND CONTINUED LACK OF COMPLIANCE WITH APPELLATE RULES REGARDING THE RECORD ON APPEAL AND IN THE ALTERNATIVE TO REQUEST A STAY OF THE DEADLINES FOR RESPONDENT TO FILE A FINAL BRIEF PENDING A CORRECT RECORD ON APPEAL....by depositing a copy of it in the United States Mail, postage prepaid, on July 15, 2021 , addressed to:

Alluette Jones
142 Coming St.
Charleston, South Carolina 29403

Respectfully submitted,

s/Timothy A. Domin
Timothy A. Domin
Bar No.: 65264
126 Seven Farms Drive, Suite 200
Charleston, South Carolina 29492-8144
Phone:(843) 577-2026
Fax: (843) 722-2867
Email: tdomin@clawsonandstaubes.com
Attorney for Respondent



Timothy A. Domin
Licensed in SC
tdomin@clawsonandstaubes.com

July 15, 2021

File No.: 20140012.007

VIA US MAIL

Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

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SC Court of Appeals

Re: SRP 2011-6, LLC v. Alluette K. Jones, et al
Case No.: 2018-CP-10-02344

Dear Ms. Kitchings:

Enclosed please find for filing, an original and six (6) copies of the Respondent's Motion to Dismiss Appeal based on lack of compliance with court's June 7, 2021 Order and a check for the \$50 filing fee.

Thank you very much for your attention to this matter.

Very truly yours,

CLAWSON and STAUBES, LLC

s/Timothy A. Domin
Timothy A. Domin

TAD/crk
Enclosures

cc: Alluette Jones (via US Mail)

FedEx®

Express

ORIGIN ID: RBNA (843) 577-2020
TRACY & DOMIN ESCOBAR
CLAYSON & STUBBS, LLC
125 SEVEN FARMS DRIVE, SUITE 200
CHARLESTON, SC 29492
UNITED STATES US

SHIP DATE: 15 JUL 2021
ACTIVITY: 6 10 LG
CAD: 2782146NET4340

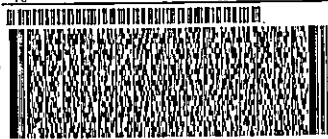
BILL SENDER

TO JENNY ABBOTT KITCHINGS CLERK
SOUTH CAROLINA COURT OF APPEALS
1220 SENATE STREET

COLUMBIA SC 29201

(803) 734-1830 REF: 20140012.007
INV DEPT

FedEx Ship Manager - Print Your Labels!

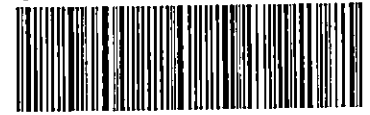


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