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Aug 23 2021

SC Court of Appeals

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

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas for the Ninth Circuit

The Honorable Mikell Scarborough, Master in Equity

Case No. 2016-CP-10-2955

Appellate Case No. 2021-000272

TCC of Charleston, Inc. *Plaintiff and Appellant/Respondent.*

v.

Concord and Cumberland, LLC, Concord & Cumberland HPR, Leo Hall, Diane Hall, Bea H. Smith, Margaret C. Pope, William D. Foster, Jr., Gene G. Foster, Mattison J. MacGillivray, Teresa MacGillivray, Pamela L. Vaughn, Nelia A. Patricio, Trustee of the Nelia A. Patricio Revocable Trust Agreement, Stuart D. Reeves, Edward T. Strom, Barbara K. Henderson, James R. Clarke, Paul A. Brim, Robert K. Seidl, Jennifer M. Seidl, Robert Kenneth Seidl, II, M. Bert Storey, Thomas R. Mather, Edward T. Strom, 304 Concord & Cumberland, LLC, Marion M. Simpson f/k/a Marion Moore McDonald Simpson, Kathy Gardner, Gregory J. Gardner, Freeman Waterfront Properties, LLC, Jo-Ann Cooper, Betty Y. Segal, Robert M. Levin, and Bonita K. Levin, Donald D. Leonard, Betty L. Beatty, Mattellen, LLC, and Thomas R. Debnam, Trustee of the Trust Agreement of Thomas R. Debnam, *Defendants and Respondents/Appellants.*

OPPOSITION TO MOTION TO STRIKE

TCC of Charleston, Inc. (“TCC”) responds to the motion to strike of Concord & Cumberland HPR (“the HPR”).

The HPR objects to seven items included in TCC’s designations of matter. Of these, there is no dispute as to two of them, for which the portions cited by TCC are admittedly in the lower court record. *See* Mot. at 1, n.1 & n.2. The HPR moves to strike its own Motion to

Reconsider filed with the arbitration tribunal, which resulted in the arbitration award that the Circuit Court refused to vacate. This challenged document, as well as the remaining documents the HPR seeks to strike, are materials properly before this Court pursuant to Appellate Court Rule 210(c).

The HPR's motion to strike highlights that missing from the HPR's appeal of the arbitration award is the arbitration record from the four days of trial and 200 exhibits, upon which the arbitrators unanimously ruled for TCC. Without a record and basis for reversal of the arbitration tribunal, the HPR has no appeal. *Hamilton v. Grayhound Lines East*, 281 S.C. 442, 444, 316 S.E.2d 368, 369 (1984) ("The appealing party has the burden of furnishing a sufficient record from which this court can make an intelligent review.").

Respectfully submitted:

EPTING & RANNIK, LLC

This 23rd day of August, 2021
Charleston, South Carolina

/s/ Jaan Rannik
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PROOF OF SERVICE

I certify that I have served the Appellant/Respondent's Opposition to Motion to Strike on opposing counsel via e-mail, on August 23, 2021, addressed to Respondents' counsel of record.

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A copy of the e-mail is attached to this Proof of Service as Exhibit A.

August 23, 2021
Charleston, South Carolina

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EXHIBIT A