

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Master-In-Equity

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Sep 09 2021

SC Court of Appeals

Hon. Deadra L. Jefferson, Circuit Court Judge
Hon. Mikell R. Scarborough, Master-In-Equity

Case No. 2016-CP-10-2955

Appellate Case No. 2021-000272

TCC of Charleston, Inc., 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,

Of Which Concord & Cumberland HPR is the Respondent/Appellant.

RESPONDENT/APPELLANT'S REPLY TO OPPOSITION TO MOTION TO STRIKE

F. Cordes Ford IV (SC Bar No. 071644)
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Respondent/Appellant Concord & Cumberland HPR (“HPR”) hereby replies to TCC of Charleston, Inc.’s (“TCC”) opposition to the Motion to Strike. The issue before the Court is whether TCC has designated matters for the record on appeal which it did not present to the lower court. Rule 210(c), SCACR. Upon our review, it has, and this Reply need not restate the HPR’s prior argument on the issue other than to state that items not presented to Judge Jefferson or Judge Scarborough should not be considered by this Court.

As for TCC’s additional assertion that a sufficient record does not exist on which this Court can perform an intelligent review of the HPR’s appeal, the HPR, to the extent required, wholeheartedly disagrees. Specifically, the error of law on appeal is whether Judge Jefferson failed to vacate and/or modify the Corrected Arbitration Award, primarily, due to the Arbitration Panel’s manifest disregard for black-letter contract law when it failed to enforce the last-in-time, unambiguous Conditional Release and Waiver of Lien prepared, executed, and sworn to by TCC, and for which the HPR paid in full. In seeking vacatur, the HPR filed all relevant and necessary information from the arbitration proceeding with the circuit court for Judge Jefferson to consider. TCC, likewise, had the opportunity to respond in the circuit court and file documents supporting its position. Further, TCC never raised the issue of sufficiency of the record to Judge Jefferson and has not done so in any motion to this Court.

The record before Judge Jefferson was substantial and, together with the parties’ briefing, (proper) designations, and the December 16, 2019, hearing transcript, is more than sufficient for this Court to perform an intelligent review of the important legal issues presented.

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Respectfully submitted,

WOMBLE BOND DICKINSON (US) LLP

A handwritten signature in blue ink, appearing to read "Cordes Ford", is centered below the firm name.

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September 9, 2021
Charleston, South Carolina

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Of Which Concord & Cumberland HPR is the Respondent/Appellant.

PROOF OF SERVICE

I, F. Cordes Ford IV, certify that I have served the foregoing **RESPONDENT/APPELLANT'S REPLY TO OPPOSITION TO MOTION TO STRIKE** on all other parties to this matter via electronic mail on September 9, 2021, addressed to their attorneys of record as follows, as evidenced by Exhibit "A" attached hereto:

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Charleston, South Carolina
Dated: September 9, 2021

EXHIBIT A

From: [Casey, Carol](#)
To: ["jgr@epting-law.com"](#); ["mendemann@clarksonwalsh.com"](#); ["ebuckley@ycrlaw.com"](#); ["sbarr@ycrlaw.com"](#); ["rhines@ycrlaw.com"](#); ["cshannon@ycrlaw.com"](#)
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Bcc: [Casey, Carol](#)
Subject: TCC of Charleston v. Concord & Cumberland HPR -
Date: Thursday, September 9, 2021 4:51:09 PM
Attachments: [Respondent Appellant's Reply to Opposition to Motion to Strike.pdf](#)

Attached for service, please find Respondent/Appellant's Reply to Opposition to Motion to Strike, to be filed with the Court of Appeals today.

Thank you,
Carol Casey

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