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

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, Wooddy Law Firm, Respondents

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APPELLANT'S RETURN TO RESPONDENTS' MOTION TO DISMISS; AND MOTION TO DISMISS OR DISREGARD RESPONDENTS' BRIEFS OR FINAL BRIEFS

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Appellant pro se, Molly Morphew (herein "Appellant"), respectfully submits its Return to Respondents' Stephen Dudek, Doreen Cross, First Federal, Allison Williams, Carolina One Real Estate, Susan Nicholson, Michael Scarafile, Wooddy Law Firm and Carrie Boyer's ("these Respondents") motion to dismiss the appeal, and motion to dismiss or disregard all respondents (herein "respondents") final briefs and continue this appeal to its consideration of. As an alternate, for an order compelling all respondents to serve and file their final briefs plus sanctions due respondents' intentional delay and/or their failure to comply with South Carolina Appellate Court Rule 211, final briefs and the filing of.

In 2012, Respondents Stephen Dudek and Doreen Cross (herein "Dudeks") entered into a sales contract with sellers Ferro, defendants in the original action in which this lawsuit arose. After the expiration date of the Dudeks' *time is of the essence* sales contract passed and there was no closing or closing date offered, Appellant entered into a sales contract with the same sellers for the same property. When the Dudeks discovered there was another buyer, they filed a lis pendens to stop that sale. Shortly after, they filed a complaint against the sellers for breach of contract seeking the remedy of specific performance. Two (2) weeks later, Appellant also filed a complaint for breach of contract seeking the remedy of specific performance.

The lower court issued an order granting specific performance to both Appellant and the Dudeks, though granting the Dudeks first chance to perform, and in the instance, they failed, Appellant would be required to perform. Appellant appealed that decision. On appeal, Appellant discovered new evidence, letters and notices denying the Dudeks mortgage application and credit for failure produce a valid and negotiable sales contract for the property, showing neither the Dudeks nor the lower court had the legal right or ability to compel or order specific performance in favor of the Dudeks and that substantial fraud was committed to obtain and sustain that decree.

Pending that appeal in which this action arose, Appellant filed this action for fraud and/or fraud on the court, and several other causes of action against the Dudeks; their attorney, loan officer, lender, sales agent and her employer and employer's counsel, and their closing attorney and paralegal, all based on their perjury, suborning of perjury, forgery, false promises, misrepresentation and/or conspiracy in the original action in order to prevent Appellant from its sole and legal right to the property, and to obtain a ruling in favor of the Dudeks for specific performance when the Dudeks and all co-respondents had express knowledge the Dudeks had no legal right to the property or ability to compel specific performance.

Now, three (3) months after service of the record, and almost 2 ½ months after final briefs were due, all respondents refuse to file their final briefs as required by the rules and orders of this Court. Instead, these Respondents file an insufficient motion to dismiss the appeal in an attempt to dismiss this appeal in order to be relieved of their fraud/fraud on the court, which would apparently relieve them their own failure to comply with the requirements of the South Carolina Appellate Court Rules and the directives of this Court, such as the serving and filing of their final briefs.

Appellant herein responds to Respondents' motion to dismiss, along with addressing errors in fact contained within their motion, plus in support of this motion, responds to Mr. Wheelers' and Mr. Crapps' letters to this Court.

A. ERRORS IN FACT

Without repeating these Respondents' procedural history word for word, Appellant raises issue to Respondents' errors in fact, where Respondents state:

1. *"Dudek's and Cross's contract was ultimately fulfilled and Appellant initiated litigation to enforce her contract over the primary contract."*

Appellant neither initiated litigation nor did so after the Dudeks contract was fulfilled. First, it was the *Dudeks* who *first* initiated litigation, after they failed to close after their seven (7) day notice "to close or else no closing was going to take place" from the sellers passed, and when they found out about another buyer. It was only *then,* and two (2) weeks later, after initial due diligence was performed, that Appellant filed her lawsuit to enforce her contract.

Further, the Dudeks contract was not "ultimately fulfilled". As presented to this Court in Appellant's briefs, the decree or order compelling the Dudek contract to be specifically performed was improper or void because the Dudeks are in default (i.e., by their own hand, did not have a valid and negotiable sales contract or legal right to the property at all times material). The Dudeks were in default at the time they filed their suit, and they are still in default. Meaning, the Dudeks' default cannot be cured[1]. Additionally, the trial court in the original action in which this instant case arises expressly limited its determination to whether the Dudeks were ready, able and willing to tender payment for the purchase price of the property as required, solely on the [false] testimony by their loan officer, who is a respondent in this instant case. This Court then affirmed the lower court's ruling based on "the findings of the trial judge who saw and heard the witnesses and was in a better position to judge their credibility". This Court should take notice that based on the true facts and valid evidence surrounding the original action, there are serious credibility issues to be determined here. Notwithstanding the fact specific performance *could not* be granted to the

[1] The decree of specific performance is improper when the plaintiff was in default at the time suit was filed, the plaintiff remains in default at the time of the decree, and the decree of specific performance is not conditional on the plaintiff curing the plaintiff's default. *Jordan v. Flynt*, 240 Ga. 359, 240 S.E.2d 858 (1977).

Dudeks[2] due their inability to tender payment on the date their contract expired or on the date they brought the action for specific performance because they, at their own hand, allowed their time is of the essence sales contract to expire before making initial application thus had no legal claim to the property when they made initial application for a loan to pay the purchase price. These critical and material facts and evidence in the Record clearly void the lower court's ruling or decree compelling specific performance in favor of the Dudeks, especially considering its decree was based solely on *fraud* and false promises made by the lender. This is not a decree obtained by merely one witness possibly committing perjury. Here, it is several witnesses, attorneys, a commercial real estate company, and a federally insured lending institution where fraud, or making false testimony and promises during a court proceeding, let alone withholding *critically material* evidence, is not tolerated. Here, even if we consider nothing but Respondent Allison Williams' sworn testimony that she "approved them [Dudeks] herself" (i.e., approved their loan), we would find a deliberately planned and carefully executed scheme to defraud not only the sellers and Appellant [from her sole right to the property], but both the Civil Court and this Court of Appeals. *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 64 S.Ct. 997, 88 L.Ed. 1250 (1944)

Here, as in *Ingram v. Kasey's Associates*, specific performance cannot be granted if the party who comes to compel performance has not performed his or her part, or was not or did not remain able and willing to perform his or her part of the contract. *Gibson v. Hrysikos*, 293 S.C. 8, 358 S.E.2d 173 (Ct.App.1987) (citing *Thomson v. Scott*, 6 S.C. Eq. (1 McCord Eq.) 32 (1825))(Where the record indicates Ingram was not "ready, able and willing" to pay Kasey's the purchase price for Remy's on the date his lease expired, or on the date he brought the action for specific performance) *Ingram v. Kasey's Associates, 531 SE 2d 287 - SC: Supreme Court 2000.*

[2] Equity does not favor the granting of specific performance as a matter of sound judicial discretion. We rely on the equity maxim: "He who seeks equity must do equity." Norton v. Matthews, 249 S.C. 71, 152 S.E.2d 680 (1967).

So, no, based on the above, the Dudeks contract is not "ultimately fulfilled". This is an issue that remains.

2. *"...and this Court ultimately affirmed the decision of the Master-in-Equity ("underlying matter")."*

Though Appellant agrees this Court affirmed the decision of the Master-in-Equity, Appellant argues in this instant case that its affirmation is improper and voidable, considering its affirmation is only "based on the findings of the trial judge who saw and heard the witnesses and was in a better position to judge their credibility," where serious credibility issues need to be determined, and where the lower court decree granting the Dudeks specific performance was based solely on fraud and/or false promises by their lender. #1 above repeated here.

3. *"This case arises out of Appellant's allegations that both before and during trial of the underlying case, all of the Respondents perpetrated a fraud on both her and the court by making fraudulent misrepresentations and failing to disclose material facts."*

Appellant does not allege *all* respondents perpetrated fraud on *both* her *and* the court *both* before *and* during the trial. Appellant alleges that the one or more respondents at some point before, during *and/or* after trial perpetrated fraud on her *and/or* the court. Further, the fraud perpetrated was not only "fraudulent misrepresentations or failing to disclose material facts", but also material perjury, forgery, false promises and suborning of perjury, all *materially critical* to the Dudeks' right to compel specific performance and the court's ability to order a decree in favor of the Dudeks.

4. *"After Appellant filed a series of motions with apparent aim to avoid including all matters designed by Respondents in the Record on Appeal, this issue was ultimately resolved by Respondents providing Appellant with copies of the disputed documents for inclusion in the record."*

Appellant's reason for its motions and this Court's August 16, 2021, November 5, 2021 and November 30, 2021 orders regarding the respondents' designation of matter included notice of matter not on appeal or relevant to the appeal; requests for matter not found (where it was not in existence nor pointed to in their briefs); matter not in the record; requests for the respondents' to update their Designation to include more specific identifying markers such as dates and case numbers; matter titled exactly the same but not the same and/or contained in separate cases, where respondents provided no identifying dates or case numbers; and matter not found because respondents incorrectly titled their designation. Appellant's aim was not to avoid including all matter but to *assure* she included all the designations properly, but if issue was found, such as Appellants' inability to find the matter in the record, she was obligated to raise these issues to the Court to prevent non-compliance of the rules and prejudice to Appellant, as stated in its motions.

To obtain resolution to the Record, the respondents, minus David Collins, first provided answers to each matter Appellant raised issue to and then, subsequently, this Court ordered respondents to provide certain documents Appellant could not find or could not identify, or where this Court found necessary to include. It should be noted that redaction was not raised in the first service of the Record in 2021.

5. "*However, this second version of the Record on Appeal was not redacted as required by S.C. Code Ann.* § 30-2-330 and Order 2014-04-15-02..... ."

Nowhere has any individual raised this issue, code or order, and they've had three (3) months to do so. More so, no one besides Mr. Wheeler has asked for redaction of personal information in the Record, though he did so generally, meaning he provided no specific request or error found nor pointed to specific page numbers of the Record[3], but instead provided generally ~ 180 individual documents/pages he redacted. The pages he allegedly found issue with are redacted, *at a minimum*, equal to Mr. Wheeler's pages. Any pages where redaction was performed pursuant Mr. Wheeler, those pages were provided to him as confirmation. Again, it should be noted by this Court, only some additional redaction was necessary as most pages Mr. Wheeler 'provided' did not contain any personal information at all or Appellant had already fully redacted those pages. As a whole, those 180 pages, at a minimum, matched Mr. Wheelers 'pages.'

6. "*...the Court advised Appellant that she must serve an amended record on appeal that has been fully redacted within ten (10) days of the date of this letter." Despite this clear directive, Appellant did not serve Respondents with a redacted record on appeal. Instead, by letter dated January 20, 2022, Appellant advised the Court that it her position that service of a redacted record was not warranted and it is the clerk's responsibility to redact filings.*"

[3] Rule 41.2(e)(1), PRIVACY PROTECTION FOR FILINGS, where Paragraph (e) of this rule is consistent with the requirements of S.C. Code Ann. § 30-2-330(B).

Contrary to the Respondent's, the Court letter and *advisement* was not an order, therefore not a directive. Further, whether it was or was not, Appellant responded appropriately by raising issue to this Court's failure to allow time for Appellant to receive and respond to Mr. Wheeler's letter before advising her to perform an action, especially an unnecessary action not mandated by the rules of the court and that would require excessive undue cost and effort.

Also, Appellant did not 'advise the Court that service of a redacted record was not warranted'. Appellant already served a [redacted] record on January 3, 2022. Appellant indicates service of another record [or re-service of the Record] where only additional redaction was performed is not warranted.

Appellant did not state it was the clerk's responsibility to redact filings. In its letter, Appellant *refers* to Rule 41.2, and states it is the court clerk that redacts or removes the data from *filed* documents[4], after receiving a request in writing, where the requester identifies the document and page number(s) that contain the data to be redacted. Further, the rule clearly states, "*The clerks of court and their staff will not review filings for redaction or to determine if materials should be sealed pursuant to Rule 41.1, SCRCP. The responsibility for ensuring that information is redacted or sealed rests with counsel and the parties*." (Emphasis added)

Moreover, it's been almost three (3) months since Appellant's letter raising these issues, and two (2) months since the filing of the Record on Appeal, and this Court has not responded to or issued an order otherwise. Ultimately, Appellant fails to see what these Respondents' ineffectual arguments or motion to dismiss this late after the serving and filing of the Record and Appellant's final briefs can achieve. One can only assume, based on the above, these

[4] In this case, the Record was only served and not yet filed at the time of Appellant's letter.

Respondents only filed an insufficient motion to dismiss the appeal in an attempt to dismiss this appeal in order to be relieved of their fraud/fraud on the court, which would relieve them of their non-compliance with the requirements of the South Carolina Appellate Court Rules and the directives of this Court, including the serving and filing of their final briefs. Additionally, it was filed to stay the proceedings in order to excuse any *further* delay and non-compliance of these Court's rules and processes.

B. As to these Respondents' ARGUMENT to support its motion to dismiss, these Respondents allege Appellant has "repeatedly" failed to comply with the requirements of the South Carolina Appellate Court Rules and the directives of this Court, therefore dismissal is warranted.

First, these Respondents allege Appellant has "*repeatedly failed to comply*...", but they don't provide any facts or rulings to support their false but highly condemning accusation. Then, in the very next sentence they only allege that Appellant has failed to serve respondents with a redacted version of the Record on Appeal. One allegation, and a false and irrelevant one at that, does not demonstrate 'repeated' failures of compliance or 'repeated' failures to comply with the requirements of the South Carolina Appellate Court Rules and the directives of this Court nor does it warrant dismissal of the appeal or their filing of a motion for dismissal.

Regardless, all respondents have been served the Record on Appeal currently on file with this Court on January 3, 2022. They weren't re-served the Record, where minimal redaction of personal information irrelevant to the appeal and briefs as requested by Mr. Wheeler and performed exactly to his 'general' request. Neither the rules of redaction nor the rules in regards to the Record on Appeal instruct or mandate re-service of documents where requests for

redaction was performed. Maybe more importantly, it's been over two (2) months since Appellant responded to this Court's letter and raised these issues. This Court has not responded in kind nor directed or decreed otherwise in regards to Appellant's position or understanding of the processes and deadlines of this instant case. Given the length of time since raising these issues, one can only assume this Court agrees with Appellant's position.

If Appellant is mistaken and this Court disagrees, Appellant argues ambiguity and partiality, where this Court's failure to respond to Appellant's letters and issues raised is a contrary position when it has answered these Respondents'. Additionally, Appellant would argue a directive to re-serve a document not yet filed would be contrary to Rule 41.2, where the court clerk performs redaction at an individual's request but is not required to re-serve the redacted document or its page(s) on which the redaction(s) were performed. Rule 41.2(e)[5]

These Respondents further contend they have a right under the South Carolina Appellate Court Rules to receive a verbatim copy of each and every filing Appellant makes with the Court. Again, these Respondents fail to provide any South Carolina Appellate Court Rule or precedent that would support their contention. Regardless, that would be contrary to Rule 41.2, meaning if the redaction was requested to and accomplished by the clerk on a document filed by the Appellant, these Respondents' argument would maintain then that the clerk would then be required to serve those redacted documents to every litigant associated. Rule 41.2 does not maintain that position, where the rule does not instruct or mandate that action. Second, these Respondents contend a verbatim copy of the Record filed is to ensure that all parties are privy to the same information provided to the Court. Their argument fails. In fact, the served Record contains all the information this Court has privy to, plus it includes the irrelevant and immaterial

[5] Paragraph (e) of this rule is consistent with the requirements of S.C. Code Ann. § 30-2-330(B).

redacted information requested by Mr. Wheeler to be removed from the filed Record. Appellant has not removed or replaced pages or performed any other action on the served record accept minor redaction of irrelevant and moot personal information, which is exactly what the court clerk would do under Rule 41.2 if the Record were filed at the time of his request.

These Respondents further argue, "*Without a copy of the fully redacted Record on Appeal, Respondents are unable to assess the sufficiency of Appellant's redactions and are unable to ensure that no additional changes have been made.*" Appellant raises issue to their unsupported attack on her integrity by indicating Appellant would commit fraud by intentionally and materially changing the Record served without notice to this Court and the respondents. This Court should take notice that the Record shows it is the *respondents* who have actually committed fraud, which is why we're here. Nowhere in the record, either in this case or any prior action, has Appellant committed any fraud or performed any action in bad faith or unfair dealings.

Regardless, and again, their argument has no subsistence. All respondents had 15 days to serve and file their final briefs after service of the Record. Since additional redaction was the only issue raised, and it's now been over two (2) months, there is obviously no other material issue in the Record. Meaning, the respondents were obligated to review the Record served or filed for any material discrepancies or issues which would could affect the filing of their final briefs. Redaction is not a material change nor does it affect the serving and filing of final briefs. Therefore, these Respondents provide no proper or timely argument sufficient to support a motion to dismiss this appeal or be relieved from their fraud and/or fraud on the court, or that would stay the proceedings of this appeal.

Additionally, since there have been no requests for redaction besides Mr. Wheelers', it is Mr. Wheeler's obligation to assess the sufficiency of the additional redactions by reviewing his request as compared to the Record filed, and only if he so chooses. Rule 41.2(c) SCACR. Mr. Wheeler has not raised one specific instance or issue since the filing of the Record on January 26, 2022. Further, these Respondents have had over two (2) months to review the Record for any material issue or discrepancy[6] in regards to the final briefs. For these Respondents to now raise an issue after two (2) months, by filing a motion to dismiss the appeal that contains no support or proper argument that would sufficiently support dismissal, delay this appeal, or relieve them from their own improper actions, is unjustified.

Based on their only argument, a motion to compel Appellant to re-serve the Record would be the appropriate action. Of course, this action would also be moot, let alone the excessive and undue burden on Appellant. These Respondents have access to any filing; therefore, re-service of the Record is unnecessary, especially if all they are doing is comparing the Record served with the Record filed. In any case, if these Respondents were required to do that months ago, and if they had compared the Record served with the Record filed, they would see it is exactly the same, minus minimal redaction of irrelevant personal information. Most importantly the Record served contains all the information this Court has privy to and all information respondents point to in their briefs. If there is any other issue, it has not been raised; and at this point, all respondents waive their right to raise any issues now. They've had months and they chose to sit on their right and obligation to review the Record and raise issue *before* the Record and final briefs were due in this Court. To allow any respondents any relief based on

[6] Minor or immaterial changes or issues, such as redaction of personal information irrelevant to the appeal and final briefs, have no bearing or standing to relieve the respondents of their failure to file their final briefs or support these Respondents their motion to dismiss the appeal.

minor and irrelevant additional redaction is improper and highly prejudicial. They complain about delay but continue to delay this appeal by filing a frivolous motion to dismiss and their refusal or intentional refusal to comply with the requirements of the South Carolina Appellate Court Rules and the directives of this Court, such as reviewing the record served and the filing their final briefs as mandated by this Court so we can continue with this appeal.

C. Argument or Response to Mr. Wheeler's letter (**Ex. A**)

Mr. Wheeler raises issue to the Record, specifically he requested additional redaction of irrelevant or immaterial personal information. Though Appellant requested specificity in his request, Mr. Wheeler has never put in writing the specific items to be redacted or those pages in the Record in which those items are specifically contained. Instead, he 'generally' requested redaction by providing to Appellant ~180 documents/pages that he redacted. In order to prevent any alteration or material change of the Record, Appellant compared each page provided to the applicable page in the Record and performed redaction, if necessary. Each page he provided was exactly redacted in the Record in accordance with Mr. Wheeler's 'request'. Mr. Wheeler's redaction request was included in the Record filed in this Court. As a courtesy, Appellant provided only those pages that contained additional redaction to Mr. Wheeler for his record. Let it again be noted that most of the pages Mr. Wheeler sent did not contain personal information or required no further redaction.

Now, Mr. Wheeler has again, and to what it appears intentional, refuses to or failed to comply with this Court's rules and processes. First, in his failure or refusal to serve and file his clients' final brief, and second, concurrently and separately, his failure or refusal to *again* provide the specific items and pages in the Record which he complains [does not match the

pages he provided to Appellant] before wasting my and this Court's time. If there is any error, Mr. Wheeler has not presented it.

Mr. Wheeler has failed to comply with Rule 211 and attempts to delay this appeal and project his failure by discrediting the Appellant. Appellant argues he violates Rule 11 in his intentional delay of this case. His only plea to this Court is that his ultimate goal is to 'ensure his clients' personal and financial information is not made public. His position has nothing to do with his failure to file his clients' final brief, or his intentional delay of this appeal. Absolutely NOTHING. Further, no Reference List has been requested or filed, therefore he was fully aware none of his "redaction requests" were cited in his clients' brief. Meaning, no 'reference list' submitted means no personal information redacted was cited by *any* litigant. Hence, his (and any Respondents') ability to file [their] clients' final brief was not hindered or prevented in any way or by any redaction in the Record.

More importantly, the Record has been filed. Whether it was scanned or not is no fault or obligation of Appellant.

Mr. Wheeler's 'redaction request', and that's putting it lightly, is a separate and background action that did nothing to prevent the filing of his clients' final brief or does nothing to prevent this Court's ability to review the Record filed for resolution of this case.

It's been three (3) months since service of the Record and over 60 days since the Record was filed and the final briefs were due. The only issue raised previously[7], regarding the Record, and now raised again, and solely by Mr. Wheeler, is alleged missing redaction of personal information irrelevant to the appeal or final briefs. Further, Mr. Wheeler fails to provide even one specific instance; therefore, it is assumed at this point that no further redaction is required. If

[7] Redaction performed and Record filed on January 26, 2022.

Mr. Wheeler, or any Respondent, would like to request further redaction, Appellant respectfully points to Rule 41.2 for any additional redaction requests regarding a filed document.

Consequently, it is very clear that Mr. Wheeler's purpose is an attempt to discredit the Appellant in the eyes of the courts and to delay this case by using his letter and request for redaction as an excuse in his deliberate failure to file his clients' final brief. [8]

It has already been pointed out that requests for redaction do not toll the time to file final briefs or relieve a party of its failure to file its final brief nor requires or mandates re-service of that document redacted[9]. This Court has not advised in its letters, nor ordered, anything otherwise. To do so now, after 2+ months since his letter, and now three (3) months, of communications between this Court and the litigants, would be severe prejudice to Appellant and undue delay of this case. More so, Mr. Wheeler still refuses to abide by the rules and attempts to hide behind a feeble and improper excuse for his failures, especially for a seasoned attorney who was a partner in a Charleston law firm.

Just as concerning, Mr. Wheeler complains of exhibits from another case attached to Appellant's letter submitted to this court. Specifically, he complains that 'other' case is pending in the lower court and not before this Court, therefore 'have no bearing on this appeal'. First, Appellant presents those exhibits in her letter to this Court as an example to support her issue with Mr. Wheeler's intentional delay in this case, and as a showing that Mr. Wheeler is not beyond intentionally and improperly delaying a case at any stage before any court. Second, it should be noted by this Court that it's *Mr. Wheeler's conduct* here that is not proper, as he himself referenced or raised this 'other' case in his initial brief in this case filed in this Court (See Respondents Dudek and Cross Initial Brief, pg. 4 and 5, August 27, 2020).

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[8] Due on or before January 24, 2022.

[9] In this case, it would be an excessive and undue burden of costs and time on Appellant to do so.

Notwithstanding, that this Court *ordered* Appellant to include the 'other' case, or its' Summons and Complaint, in the Record[10]. Now, when it suits him, Mr. Wheeler argues against reference to the 'other' case and presents Appellant as doing something improper. A contradiction or a contrary position when it suits him or his clients cannot be maintained. Regardless, whether the exhibits have a bearing on this appeal is irrelevant in this instance where Appellant presents those exhibits as an example of Mr. Wheeler's intentional delay in response to his issue(s) raised.

D. In response to Mr. Crapps' letter (Ex. B):

Mr. Crapps only argument is that 'they have not been served a redacted version of the Record and are unable to determine the sufficiency of, therefore cannot file their final brief due their inability to cite to the record in their final briefs'.

First, in this case and at this point, it is not Mr. Crapps, his clients or any other individuals, besides Mr. Wheelers', duty to determine the sufficiency of the redaction *as he requested.* Mr. Crapps did not submit any requests for redaction[11] and his argument has nothing to do with Mr. Wheeler's redaction request, which is a separate and background action that did nothing to prevent the filing of Mr. Crapps' (or any respondents') clients' final brief or this Court's ability to review the Record filed for resolution of this case, as argued herein motion and repeated here. No Respondent or their counsel can ride on the coattails of Mr. Wheeler's redaction request to relieve them of their failure to file their final brief or their failure to comply with the rules and processes of this Court. Further, Rule 41.2 does not mandate re-service of a

[10] Mr. Wheeler included the 'other' case, or complaint from the "other' case, in his brief and designation of matter. Appellant argued more than once against it as improper or irrelevant to this appeal, but this Court ordered Appellant to include it in the Record.

[11] If they have any requests for redaction, Appellant points to Rule 41.2 for a filed document. Regardless, any requests for redaction does not toll the time as mandated by the rules of this Court.

document redacted nor tolls the time [to file final briefs] or any party's failure to comply with the Rule 211 until any non-requesting party determines the sufficiency of the redaction request.

Second, and maybe most important, no Reference List has been requested, even by Mr. Crapps, or filed, so any redacted item or personal information in the Record is irrelevant to the appeal and the final briefs. Consequently, Mr. Crapps is fully aware that none of his 'cited' information in his clients' brief was a Rule 41.2 redacted item. Meaning, in layman's terms, no 'reference list' means no redacted items or personal information pursuant rule 41.2 was cited by *any* litigant, therefore nothing prevented Mr. Crapps' (or any counsels') ability to cite the Record served or filed in his clients' final brief or file their final briefs.

It's been over two (2) months since service of the Record and 41 days since the Record was filed and the final briefs were due. Neither Mr. Crapps nor any other respondents has raised a material issue that would prevent the filing of the final briefs. Neither the rules of this Court nor a court order changed the serving and filing due date of the Record or the final briefs. No motion requesting relief from their failure to comply with Rule 211 has been filed. Though it should be noted, a request for relief does not stay the time limits imposed by the court rules by the filing of a motion or petition. Rule 240(b). It has already been pointed out that requests for redaction do not toll the time to file final briefs nor requires or mandates re-service of that document redacted. This Court has not advised in its letters, nor ordered, anything otherwise. To do so now, after three (3) months of communications between this Court and the litigants, would be severe prejudice to Appellant and undue delay of this case. More so, all respondents still refuses to abide by the rules and attempt to hide behind Mr. Wheeler's irrelevant [especially to the appeal] request for redaction. This Court should take notice this is questionable behavior for a seasoned attorneys.

Lastly, Mr. Crapps stated they "very much want to move this case to final briefing and to an eventual resolution." The case Status is already in 'final briefing.' Specifically, "Final Briefing/Record," and has been since service of the Record on January 3, 2022. Again, the time limits imposed by this Court's rules are not changed by requests for redaction nor are filings, reviews and 'case resolutions' prevented by redaction requests.

E. All respondents did not request dismissal of the appeal

All respondents did not request dismissal of the appeal. Specifically, Respondent David Collins was not included on these Respondents' motion to dismiss nor has he filed a motion requesting dismissal. Further, Mr. Collins is in default or the question of his default is before this Court. Due these reasons, dismissal of the appeal is inappropriate.

F. These Respondents' motion to dismiss does not warrant dismissal nor is sufficient to stay the proceedings of the appeal

As argued above and repeated here, these Respondents' motion to dismiss does not constitute dismissal or a stay of the appeal. These Respondents' motion is solely based on the rules of redaction or irrelevant additional redaction performed, and whether Appellant is required to re-serve a document where further redaction of irrelevant personal information was requested, specifically additional redaction in the previously served and filed Record on Appeal.

G. All respondents failed to comply with Rule 211, the serving and filing of their final briefs, where no relief has been requested

All respondents failed to file their final briefs due January 24, 2022, and have not requested relief for their failure to comply with these Court's rules and processes, including but not limited to, Rule 11 SCACR. All respondents intentionally fail to comply with the requirements of the South Carolina Appellate Court Rules and the directives of this Court. All respondents are in default. As a result, all respondents' briefs or final briefs should be disregarded or dismissed for their default or failure to comply and intentional delay of this appeal. As an alternate, an order to serve and file all final briefs immediately and for sanctions this Court sees fit for their failure to comply, frivolous motion to dismiss, and intentional delays of this appeal.

Conclusion

Due the reasons and arguments above, Appellant asks this Court to dismiss with prejudice these Respondents' motion to dismiss the appeal. It further asks this Court to dismiss or disregard all respondents' final briefs, or as an alternate, order all respondents to immediately serve and file their final briefs and sanctions due to their intentional delay and failure to comply with the requirements of the South Carolina Appellate Court Rules and the directives of this Court.

Respectfully Submitted,

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March 26, 2022

Ex. A

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Post Office Box 11629
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ctappfilings@sccourts.org

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

Dear Ms. Kitchings:

I write in response to the Appellant's letter, dated January 22, 2022.

First, in her letter, the Appellant states that she has not received my letter, dated January 11, 2022, in which I brought to the Court's attention that the Record on Appeal she recently served was not properly redacted. This seems to be a misrepresentation by the Appellant for the following reason: My January 11, 2022, letter was my first notice to the Court and all parties that I had changed firms and that my address should be updated. The Appellant sent her January 22, 2022, letter to my new firm. (See enclosed envelope from the Appellant). In other words, the only way the Appellant would know to send her January 22, 2022, letter to my new address is if she received, or at least reviewed, my January 11, 2022, letter. For that reason, I question her statement that she did not receive my January 11, 2022, letter.

Second, based on her letter, it is apparent that the Appellant has not served a fully redacted Record in compliance with the Court's January 14, 2022, letter. It also appears that she does not believe she is required to do so. Instead, the Appellant attempts to place her own deadlines on the Respondents and send non-sequential pages from the Record to only me. This does nothing to properly update the Record for everyone involved, including the Court.

Third, despite all of these concerns, I agree with the Appellant on one point – I am ready to see this appeal come to an end. In this vein, I am once again sending her the redacted version of the files that contain sensitive information. Recall that I previously sent these files to the Appellant in June for use in the Record. (See my June 21, 2021, letter). All of these issues could have been prevented, had the Appellant simply used the files I redacted and provided to her, nearly 7 months prior to her compiling and serving the most recent Record. Further, I am more than willing to consent to having just the volumes of the Record containing the problematic files

Ex. A

updated, assuming the Appellant uses the documents that have been redacted and that I am resending with this letter. That would partially alleviate her concern about reproducing the entire Record. Effectively, the files that I am sending to the Appellant in conjunction with this letter can be numbered accordingly and placed in the appropriate volumes. I am only sending these documents to the Appellant with a copy of this letter. If the Court requires a copy of the files, I would be more than happy to provide one.

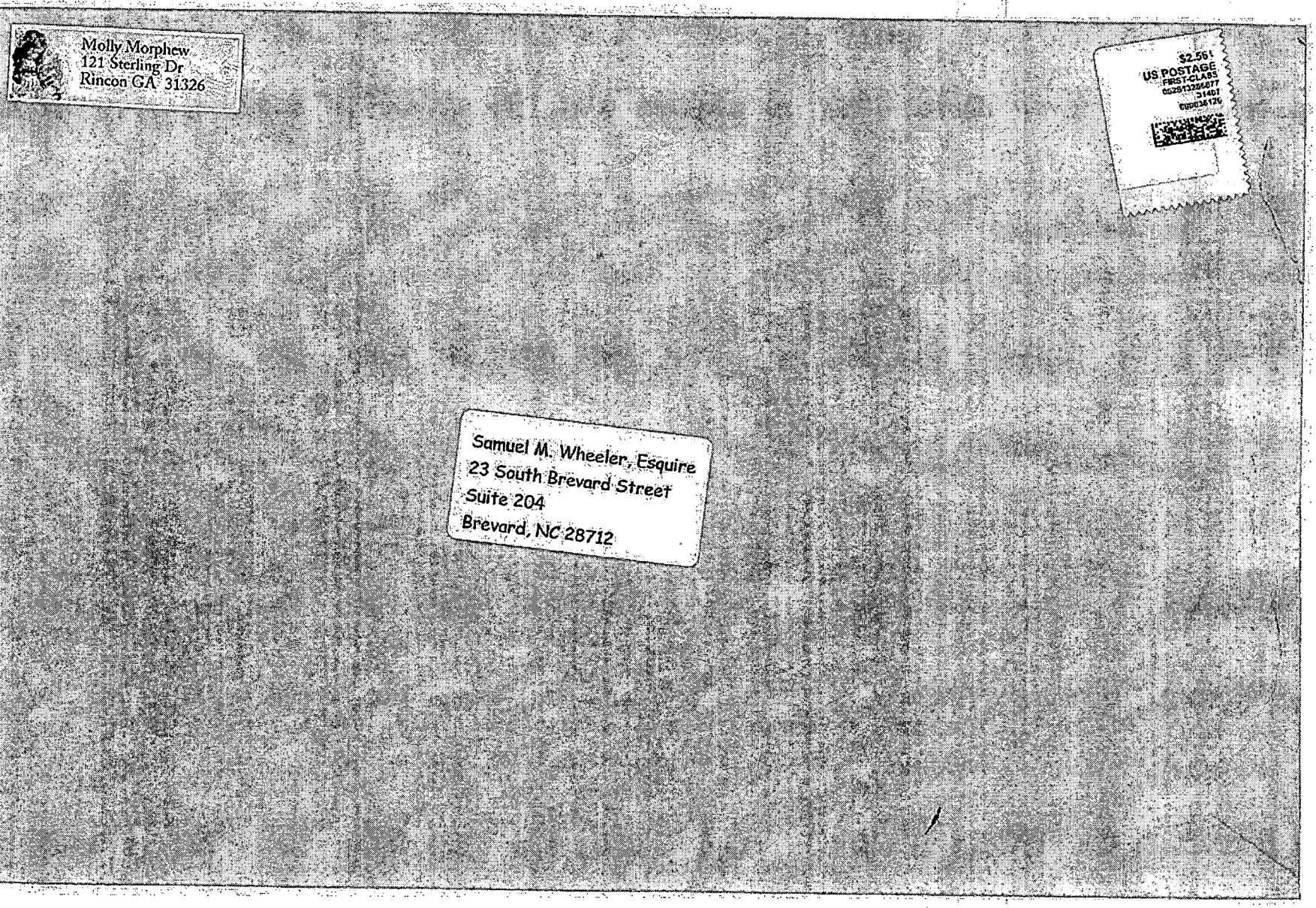
I stand ready to take any action required by the Court. Please do not hesitate to contact me.

Best regards,

Sam Wheeler

cc: All counsel for Respondents and Respondents of record (via email)
Appellant (via U.S. Mail)

Enclosures: (1) Copy of envelope (sent to Court and all parties)
(2) Redacted files (sent only to Appellant)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Ex. B

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JORDAN M. CRAPPS
A member of the South Carolina Bar
Direct Dial: 803.724.1753
jcrapps@GWBlawfirm.com

January 21, 2022

VIA ELECTRONIC MAIL
The Honorable Jenny Abbott Kitchings
Clerk of Court, South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201
ctappfilings@sccourts.org

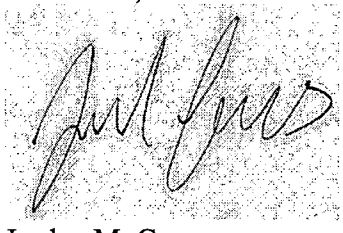
Re: *Molly Morphew v. Stephen Dudek, et al.*
Appellate Case No.: 2018-002185

Dear Ms. Kitchings:

I write on behalf of the Respondents in the above referenced matter. We are in receipt of the Court's January 14, 2022 letter requesting Appellant serve an amended, redacted Record on Appeal on or before January 24, 2022. Based on this letter and to avoid potential citation errors, Respondents intend to file their final briefs following service of the requested Amended Record on Appeal. However, if Respondents understanding is in error, Respondents stand ready to file final briefs as directed by the Court of Appeals. As always, thank you for your assistance with this matter.

Sincerely,

GALLIVAN, WHITE & BOYD, P.A.



Jordan M. Crapps

JMC:

cc: Molly M. Morphew
Sam Wheeler, Esquire
Amy L. Neuschafer, Esquire
David Collins, Esquire

Ex. B

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

Appellate Case No. 2018-002185

Molly M. Morphew — Appellant

v.

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

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CERTIFICATE OF SERVICE

I, Molly M. Morphew, Appellant [and pro se] for said case, hereby certify that I have, on this date indicated below, served counsel below with its Motion to Dismiss, by mailing a copy of same via United States Mail, postage prepaid and return address clearly indicated on said envelope, to counsel at the following address:

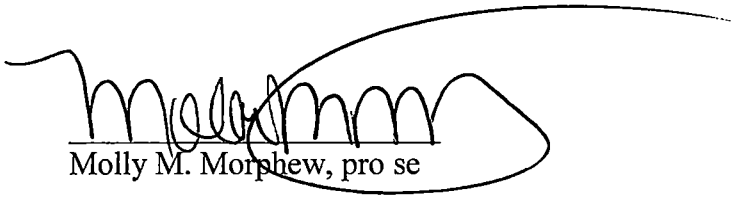
Samuel Wheeler, Esquire
P.O. Box 1101
Brevard, NC 28712
Attorney for Respondents:
Stephen Dudek
Doreen Cross
Susan Nicholson

David A. Collins, pro se
394 Hoff Avenue
Charleston, SC 29407
Respondent, pro se

Michael Scarafile
Carolina One

Amy L. Neuschafer, Esquire
Collins & Lacy, PC
11945 Grandhaven Drive, Ste D
Murrells Inlet, SC 29576
Attorney for Respondents:
Carrie Boyer
Wooddy 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 Bank)



Molly M. Morphew, pro se

March 27, 2022

March 27, 2022

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, Doreen Cross, et al.

Dear Ms. Kitchings:

Please find enclosed, Appellant's original motion to dismiss and certificate of service, and the filing fee, along with a copy to be kindly recorded and returned in the self-addressed, stamped envelope.

Thank you and sincerely yours,

Molly M. Morphew

Molly Morphew, pro se

Cc: Amy L. Neuschafer, Esq.
Amy B. Hill, Esq.
Samuel Wheeler, Esq.
David A. Collins, pro se

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UNITED STATES US

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TO HONORABLE JENNY ABBOTT KITCHINGS
SOUTH CAROLINA COURT OF APPEALS
P.O. BOX 11629

COLUMBIA SC 29211
(803) 734-1690

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