

IN THE DISTRICT COURT OF APPEAL
THIRD DISTRICT OF FLORIDA

CASE NO. 3D21-1083
L.T. CASE NO. 2018-000931-CA-01 (44)

JOHN W. SCHMITZ,
Appellant/Cross-Appellee,

v.

DOROTHY JOAN SCHMITZ, *et. al.*,
Appellees/Cross-Appellants.

JOHN W. SCHMITZ,
Appellant/Cross-Appellee,

v.

SCHMITZ DEVELOPMENT
COMPANY,
Appellee/Cross-Appellant,

and

LUCILA SCHMITZ,
Cross-Appellee.

**JOINT MOTION TO SUPPLEMENT THE RECORD ON APPEAL
WITH TRANSCRIPTS**

Appellant and Appellees, pursuant to Rule 9.200(f), of the Florida Rules of Appellate Procedure, move to supplement the record on appeal with the designated transcripts of proceedings and for this Court to direct the circuit court clerk to transmit to this Court a corrected record on appeal that includes the omitted March 12, 2021

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and March 23, 2021 hearing transcripts designated by Appellant and the transcripts designated by Appellees, and to transmit the trial transcripts to this Court in accordance with Rule 9.200(d). In support, the Parties state as follows:

1. This is an appeal from an Amended Final Judgment entered following a trial and post-trial hearings.

2. Appellant John W. Schmitz filed his Designation to Court Reporter on May 17, 2021, designating for inclusion in the record on appeal: (1) the transcript of trial proceedings held from January 21, 2020 to February 5, 2020, and (2) the transcripts of the hearings held on the parties' post-trial motions on March 12, 2021 and March 23, 2021. R. 17450-17451.

3. On June 17, 2021, U.S. Legal Support filed the March 12, 2021 hearing transcript with the circuit court (Docket No. 860). A transcript of the March 23, 2021 hearing was also filed on that date, but the transcript failed to include the date of the hearing and had to be corrected.

4. On June 30, 2021, U.S. Legal Support filed the corrected March 23, 2021 hearing transcript with the circuit court (Docket No. 868).

5. On July 1, 2021, the circuit court clerk transmitted the record on appeal to this Court. The record on appeal omits the designated transcripts of the March 12, 2021 and March 23, 2021 hearings. In accordance with Rule 9.200(d), the circuit court clerk was required to include these designated transcripts in the record on appeal. Thus, this Court should direct the circuit court clerk to transmit a corrected compliant record on appeal that includes these omitted designated transcripts.

6. Following extensions of time, on September 17, 2021, Empire Legal Reporting filed the designated trial transcripts with the circuit court (Docket Nos. 948-959). The circuit court clerk is required to transmit the trial transcripts to this Court in accordance with Rule 9.200(d), of the Florida Rules of Appellate Procedure.

7. Thereafter, Appellees filed hearing and deposition transcripts that they would like included in the record on appeal. Some of these transcripts were previously filed and designated for inclusion in the record on appeal but were subsequently stricken by this Court because they were originally incorrectly filed as condensed transcripts. Thus, Appellees ask that this Court supplement the record with the following transcripts filed with the circuit court and

direct the circuit court clerk to transmit a corrected record on appeal that also includes these transcripts:

DOCKET NO.	DATE FILED	DOCKET ENTRY/COMMENTS
970	10/04/2021	Notice of Filing Hearing Transcript of 02/08/2021
971	10/04/2021	Notice of Filing Hearing Transcript Taken 11/24/2020
972	10/04/2021	Notice of Filing Hearing Transcript of 01/08/2021
973	10/04/2021	Notice of Filing Deposition of Lucila Schmitz (Vol. 1)
974	10/04/2021	Notice of Filing Deposition of Lucila Schmitz (Vol. 2)
975	10/04/2021	Notice of Filing Exhibits to Deposition of Lucila Schmitz
976	10/04/2021	Notice of Filing Deposition of Lea Liberman (Vol. 1)
977	10/04/2021	Notice of Filing Deposition of Lea Liberman (Vol. 2)
978	10/04/2021	Notice of Filing Deposition of John Schmitz (Vol. 2)
979	10/04/2021	Notice of Filing Deposition of John Schmitz (Vol. 1)
980	10/05/2021	Notice of Filing Deposition of John Schmitz (Vol. 3)

981	10/05/2021	Notice of Filing Deposition of John Schmitz (Vol. 5)
982	10/05/21	Notice of Filing Deposition of John Schmitz (Vol. 4)
983	10/05/21	Notice of Filing Deposition of Ruben Kloda

WHEREFORE, Appellant and Appellees respectfully request that this Court supplement the record on appeal with the designated transcripts of proceedings and direct the circuit court clerk to transmit to this Court a corrected compliant record on appeal that includes the omitted March 12, 2021 and March 23, 2021 hearing transcripts designated by Appellant, the transcripts designated by Appellees, and to transmit the trial transcripts in accordance with Rule 9.200(d), of the Florida Rules of Appellate Procedure.

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Respectfully submitted,
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was electronically filed with the court via the Florida Courts E-Filing Portal on October 6, 2021, which will transmit a service copy to all counsel of record, including: Bruce S. Rogow, Esq. (brogow@rogowlaw.com), Bruce S. Rogow, P.A., P.O. Box 749, Cedar Mountain, NC 28718, and Tara A. Campion, Esq. (tcampion@rogowlaw.com), Bruce S. Rogow, P.A., 1199 S. Federal Hwy., #212, Boca Raton, FL 33432, and Stephen J. Simmons, Esq. (ssimmons@mbhlawyer.com), Seth A. Kupilik, Esq. (skupilik@mbhlawyer.com), Michael P. Hamaway, Esq. (mhamaway@mbhlawyer.com), Mombach, Boyle, Hardin & Simmons, P.A., 100 NE 3rd Avenue, Suite 1000, Fort Lauderdale, FL 33301, and Deborah Baker, Esq. (deborah.baker@gmlaw.com), Helbert A. Canales-Rojas, Esq. (helbert.canales-rojas@gmlaw.com) (alejandra.albuerne@gmlaw.com), Greenspoon Marder, LLP, Brickell World Plaza, 600 Brickell Avenue, Ste. 3600, Miami, FL 33131, *Counsel for Dorothy Joan Schmitz, Cheryl Schmitz, The Northern Trust Company, and Schmitz Development Company*; J. Raul Cosio, Esq. (raul.cosio@hklaw.com) (elaine.starling@hklaw.com), Jose A. Casal, Esq. (jose.casal@hklaw.com) (josie.vila@hklaw.com), Rebecca Canamero, Esq. (rebecca.canamero@hklaw.com) (carla.cosio@hklaw.com), Holland & Knight LLP, 701 Brickell Avenue, Suite 3300, Miami, FL 33131, *Counsel for Cheryl Schmitz and The Northern Trust Company*; Carlos D. Lerman, Esq.

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