

**IN THE SUPREME COURT OF THE UNITED STATES**

**BIOBELE GEORGEWILL, Petitioner**

**v.**

**JOSHUA M. BALL and HODGES DOUGHTY & CARSON PLLC, Respondents**

**Case No. 25-5754**

**Date: November 12, 2025**

**REPLY TO RESPONDENTS' BRIEF IN OPPOSITION**

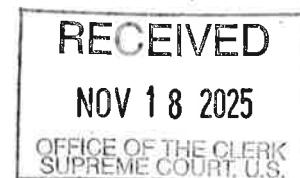
Petitioner: Biobele Georgewill

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Date: November 12, 2025



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## **TABLE OF AUTHORITIES**

### **I. Cases**

Bean v. Bailey, 280 S.W.3d 798 (Tenn. 2009)

Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009)

In re Evergreen Sec., Ltd., 570 F.3d 1257 (11th Cir. 2009)

In re Hawsawi, 955 F.3d 152 (D.C. Cir. 2020)

Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847 (1988).

Offutt v. United States, 348 U.S. 11, 14 (1954).

United States v. Balistrieri, 779 F.2d 1191 (7th Cir. 1985)

United States v. Couch, 896 F.2d 78 (5th Cir. 1990)

Winder v. Winder, No. E2019-01636-COA-T10B-CV, 2020 WL 4200832 (Tenn. Ct. App. Aug. 19, 2020)

### **II. Statutes / Codes**

28 U.S.C. § 455(a)

### **III. Rules / Court Guidance**

Tennessee Supreme Court Rule 10, Canon 2.11(A)

Guide to Judiciary Policy, Vol. 2, Ethics and Judicial Conduct, Pt. B: Advisory Opinions

### **IV. Secondary Authorities / Advisory Opinions**

Massachusetts Committee on Judicial Ethics Opinion No. 95-6 (1995)

## **QUESTIONS PRESENTED**

- I. Whether the Due Process Clause of the Fourteenth Amendment requires a judge to recuse when a longstanding professional relationship with a law firm that is now a party creates a reasonable appearance of bias.
- II. Whether state courts violate federal due process by denying recusal based on a judge's subjective belief in their own impartiality, even when a sworn affidavit establishes a formal and factual basis for recusal.
- III. Whether inconsistent treatment of historical professional relationships across state and federal courts creates a recurring and nationally significant problem affecting litigants' constitutional right to an impartial tribunal.

## **LIST OF PARTIES**

Pursuant to Supreme Court Rule 29.6, the following parties appear in this case:

Petitioner:  
Biobele Georgewill

Respondents:  
Joshua M. Ball  
Hodges, Doughty & Carson, PLLC

## 1. INTRODUCTION

Petitioner submits this reply to emphasize that the federal constitutional question, whether a judge must recuse when historical professional relationships create a reasonable appearance of bias, is compelling and of national significance. Respondents' characterization of the facts minimizes the constitutional implications and understate the due process concerns. Petitioner respectfully requests that this Court grant certiorari to clarify the constitutional standard for recusal.

Since the filing of this petition, the same law firm, Hodges, Doughty & Carson PLLC, has appeared on behalf of additional defendants in related appeals filed by Petitioner. This development further compounds the appearance of bias and reinforces the ongoing entanglement between the bench and the Respondents' counsel. The growing overlap between the judge's former firm and the parties before her magnifies the very structural due process concern this case presents: the erosion of public confidence in the impartiality of judicial proceedings.

This Court's intervention is warranted to clarify that such circumstances, where a judge's former firm repeatedly appears before her, including in related matters involving the same litigant, violate the constitutional demand for a neutral decisionmaker.

## 2. ARGUMENT

### **I. Federal Question Remains Undeveloped and Peculiar**

The Fourteenth Amendment's guarantee of due process requires an impartial tribunal free from even the probability of bias.

The core issue is whether the due process guarantee of an impartial tribunal under the Fourteenth Amendment is violated when a judge presides over a case in which they have prior, significant professional ties to a law firm that is either a party or represents parties before the court.

Petitioner sought recusal before any adjudication to avoid prejudice. The underlying case, in which the law firm is a defendant, remains pending at the trial court due to procedural returns from the Tennessee Court of Appeals. If dismissed, it is likely to return on appeal before the same judge. Additionally, the same law firm represents defendants in other appeals where Petitioner is the plaintiff. This dual role, as a defendant in one case and counsel for defendants in other pending appeals, creates a concrete risk of adjudication by a judge with longstanding professional ties to the firm, undermining impartiality under the Fourteenth Amendment.

Courts within Tennessee and other states have reached inconsistent conclusions on whether historical professional relationships warrant disqualification, highlighting the urgent need for Supreme Court guidance to establish a uniform federal standard for recusal.

Tennessee courts have inconsistently applied standards for recusal, allowing judges discretion that creates uncertainty for litigants nationwide. The absence of uniform national standards for judicial recusal based on historical professional ties has produced irreconcilable conflict among state and federal courts, directly implicating the Fourteenth Amendment's guarantee of an impartial tribunal.

## **II. Misapplication of the Federal Recusal Standard**

The state courts dismissed Petitioner's recusal motion as "speculative," contrary to the ordinary-person perception test articulated in *Caperton* and reaffirmed in *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847 (1988). The relevant inquiry is not whether actual bias can be proven, but whether an objective observer would reasonably question the judge's impartiality.

The Tennessee courts failed to apply this standard. Their cursory denial overlooked the factual context, both the judge's prior professional relationship and the ongoing appearance of alignment between her former firm and parties before her. The later emergence of that firm's participation in related appeals underscores precisely why the *Caperton* framework exists: to prevent erosion of public trust in the judiciary through apparent favoritism or divided loyalty.

By refusing to recognize this constitutional threshold, the lower courts effectively insulated state judges from federal due process review and left litigants without a meaningful safeguard against structural bias.

## **III. Bias / Dual Interest**

The probability of bias in this case is substantial and readily perceivable by an ordinary person. Judge Kristi M. Davis maintained a 14-year professional partnership with the law firm Hodges, Doughty & Carson PLLC, which is now a defendant in one case before her and represents defendants in other pending appeals in which Petitioner is the plaintiff. Such longstanding ties inevitably create professional loyalty and could influence, consciously or unconsciously, the judge's treatment of matters involving the firm or its clients.

#### **IV. Federal Guidance and the Ongoing Conflict**

Federal judicial ethics guidance emphasizes that longstanding professional relationships can create a continuing risk of perceived bias. **The Guide to Judiciary Policy, Vol. 2, Ethics and Judicial Conduct, Pt. B: Advisory Opinions** recommends a minimum “cooling-off” period of **two years** after a judge leaves a law firm before that firm appears before them, but explicitly notes that **longer periods may be warranted depending on circumstances**. Relevant circumstances include: the **length and nature of prior association** (here, 14 years at Hodges, Doughty & Carson PLLC), the **dual role of the firm** as both a defendant in one case and counsel for defendants in other pending appeals before the same judge, the **ongoing litigation**, and the **potential public perception of impropriety**.

In the present situation, the judge’s prior 14-year affiliation with the firm, combined with the firm’s dual roles, creates precisely the type of scenario the federal guidance warns could require a longer cooling-off period or complete recusal. **Petitioner filed a recusal motion with a sworn affidavit** citing these conflicts, yet the judge denied the motion, even in cases where the firm represents defendants other than itself. Respondents’ claims that no affidavit was filed are factually incorrect.

#### **V. Circuit Split on recusal standards for historical professional ties:**

Tennessee applies subjective standards for recusal (*Winder v. Winder*, 2020 WL 4200832; *Bean v. Bailey*, 280 S.W.3d 798), allowing judges to deny recusal even after long-term prior firm affiliations. By contrast, federal guidance under §455(a) and cases like *In re Hawsawi*, 955 F.3d 152 (D.C. Cir. 2020), *United States v. Balistreri*, 779 F.2d 1191 (7th Cir. 1985), *United States v. Couch*, 896 F.2d 78 (5th Cir. 1990), and *In re Evergreen Sec., Ltd.*, 570 F.3d 1257 (11th Cir. 2009) show a circuit split: some circuits apply an objective standard where the appearance of bias matters, while others defer to the judge’s self-assessment. This disuniformity highlights the need for Supreme Court guidance.

No.	Circuit	Case	Standard	Holding
1	D.C	In re Hawsawi, 955 F.3d 152 (D.C. Cir. 2020)	Objective	Recusal required if prior professional role creates a reasonable appearance of bias, even absent actual prejudice.
2	7th	United States v. Balistrieri, 779 F.2d 1191 (7th Cir. 1985)	Objective	Appearance of bias from past associations requires objective inquiry under § 455(a).
3	5th	United States v. Couch, 896 F.2d 78 (5th Cir. 1990)	Subjective	Judge's personal belief in impartiality controls unless extrinsic evidence shows bias.
4	11th	In re Evergreen Sec., Ltd., 570 F.3d 1257 (11th Cir. 2009)	Subjective	Judge's self-assessment entitled to substantial weight; recusal denied absent clear evidence of bias.

**Circuit Split Illustrates the Need for Clarity**

## VI. Due Process Implications and National Significance

The combination of federal circuit splits and Tennessee's permissive approach produces a **nationally significant issue**, affecting litigants across the country. When a judge with a **long-term prior professional relationship** presides over cases involving the same law firm, either as a party or as counsel for another party, the **risk of perceived bias is substantial**. *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009), addresses only financial bias and does not resolve these broader due process concerns. Supreme Court review is therefore warranted to establish a **uniform constitutional standard under § 455(a) and the Fourteenth Amendment**, ensuring that **no reasonable observer could question judicial impartiality based on longstanding professional entanglements**.

The Due Process Clause prohibits not only actual bias but also the appearance of partiality that would cause an ordinary observer to doubt the judge's neutrality. *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009). This Court has consistently held that "justice must satisfy the appearance of justice." *Offutt v. United States*, 348 U.S. 11, 14 (1954).

Here, the presiding judge maintained a 14-year professional relationship with the law firm representing the Respondents. That enduring partnership, viewed through the lens of *Caperton*, creates a constitutionally intolerable probability of bias. The risk is not speculative; it is grounded in the judge's long-standing affiliation with counsel now appearing before her in multiple matters.

## VII. National Significance of Clarifying Recusal Standards

This issue is not merely a state law dispute but presents a federal constitutional question of nationwide importance. This inconsistency is not confined to Tennessee. Other states, including Massachusetts, have adopted approaches that sometimes require recusal where historical professional affiliations exist. Massachusetts Committee on Judicial Ethics Opinion No. 95-6 (1995) mandates recusal or disclosure when a former firm appears before the judge within a reasonable period post-separation, recognizing that a 14-year tenure creates an enduring perception of divided loyalties.

Federal circuits remain divided, and this disuniformity, unresolved by *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009), which addressed only financial conflicts, creates intolerable uncertainty for litigants and risks systemic due process violations. Supreme Court review is therefore essential to establish a clear, objective constitutional floor under 28 U.S.C. § 455(a) and the Fourteenth Amendment, ensuring that no reasonable observer could question judicial impartiality based on longstanding professional ties.

This unique combination of facts presents a situation not squarely addressed by prior federal precedent, rendering this a nationally significant issue of constitutional law suitable for Supreme Court review.

Respondents' attempt to frame the judge's historical ties as irrelevant or speculative is contrary to *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009), which emphasizes that the probability of bias must be judged from an ordinary-person perspective. Petitioner's allegations demonstrate a credible probability of bias, satisfying the federal due process standard.

Federal precedent recognizes that due process is violated not only by actual bias but also by the appearance of bias, and the assessment must be made from the perspective of a reasonable observer familiar with the circumstances. See *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009). In this context, the judge's historical relationship with the firm is neither remote nor trivial; it is objectively substantial and raises a credible probability of bias sufficient to implicate the Fourteenth Amendment.

#### **VIII. Affidavit acknowledgment:**

Respondents' claim that no affidavit was filed is incorrect. The record contains a sworn affidavit supporting Petitioner's recusal motion in the underlying appeal, and another in related appeals where the firm represents defendants. Despite this, the judge denied recusal, demonstrating an ongoing perception of bias and a procedural due process concern.

#### **IX. Inconsistent protections across states.**

This case presents a recurring and nationally significant problem: judges frequently have longstanding professional relationships with law firms or parties that later appear before them. Without Supreme Court guidance;

1. Judges have broad discretion to deny recusal even when an ordinary person would perceive bias.
2. The integrity of judicial proceedings is threatened, particularly when a judge's impartiality is reasonably questioned before the case is heard on the merits.
3. The Court's review is necessary to set a uniform federal standard and to prevent individual state courts from undermining due process rights through subjective or inconsistent application of recusal rules.

### **3. Conclusion**

For the reasons stated in Petitioner's Petition for Writ of Certiorari and reinforced here:

1. The federal question is clear and compelling.
2. Respondents' mischaracterizations do not diminish the constitutional concerns.
3. The case presents a unique and nationally significant circumstance requiring clarification of the due process standard for recusal.

Petitioner respectfully requests that this Court grant the petition for writ of certiorari and provide guidance on the proper constitutional treatment of recusal when historical professional relationships raise a reasonable probability of bias.

Respectfully submitted,



Biobele Georgewill, Petitioner  
423-561-5480  
biogeorgewill@gmail.com

#### 4. APPENDIX

##### Appendix A – Petitioner’s Recusal Motion and Sworn Affidavit

Filed in a related appeal where Hodges, Doughty & Carson PLLC represents defendants, demonstrating the formal request for recusal based on the judge’s prior professional relationship with the firm.

##### Appendix B – Recusal Denial Order

The trial court’s order denying Petitioner’s recusal motion in the related appeal, showing the ongoing conflict despite the sworn affidavit.

##### Appendix C – Filings Demonstrating Law Firm’s Dual Role

Court filings confirming that Hodges, Doughty & Carson PLLC is both a defendant in one case and representing defendants in other pending appeals before the same judge.

**IN THE COURT OF APPEALS OF TENNESSEE  
AT KNOXVILLE**

**Biobele Georgewill,  
Plaintiff-Appellant,**

v.

**CMH Homes, Inc. d/b/a Clayton Homes,  
Defendants-Appellees.**

**Case No.: E2025-01606-COA-R3-CV  
Date: October 17, 2025**

**MOTION TO RECUSE JUDGE KRISTI M. DAVIS**

The Plaintiff-Appellant, Biobele Georgewill, appearing pro se, respectfully requests that this Court order Judge Kristi M. Davis to recuse herself from any further proceedings in this case while the appeal is pending.

**1. Procedural Background**

1. Plaintiff-Appellant asserts claims arising from fraudulent inducement of an escrow agreement.
2. In a separate proceeding involving related circumstances, Plaintiff previously raised concerns regarding Judge Davis's impartiality due to her prior affiliation with the law firm representing the Defendants. That matter is currently pending before the United States Supreme Court and has not been adjudicated on the merits.

**2. Grounds for Recusal**

**A. Pending Supreme Court Review**

Because the U.S. Supreme Court has not yet issued a ruling on the related matter, there remains a legitimate question regarding Judge Davis's impartiality in this appeal.

**B. Risk of Prejudice**

Continuing proceedings before Judge Davis while the related matter is pending could prejudice Plaintiff-Appellant and affect her right to a fair and impartial adjudication.

Tennessee Supreme Court Rule 10, Canon 2 and Tenn. Code Ann. § 17-1-101 require recusal when a judge's impartiality might reasonably be questioned. In light of the pending Supreme Court review, continued participation by Judge Davis in this case could undermine public confidence in judicial integrity.

#### D. Legal Standard

Rule 10B requires recusal where "a person of ordinary prudence in the judge's position, knowing all the facts, would find a reasonable basis for questioning the judge's impartiality." *Bean v. Bailey*, 280 S.W.3d 798, 805 (Tenn. 2009). Tennessee law does not require proof of actual bias, even the appearance of bias is enough. *Davis v. Liberty Mut. Ins. Co.*, 38 S.W.3d 560, 564 (Tenn. 2001).

#### 3. Certificate of Good Faith

This motion is not to harass, delay or increase costs. Plaintiff files this in good faith because no impartial judge would force a party without consent to arbitrate, threaten dismissal with prejudice for refusal, retaliate after a remand, or preside while being a defendant in Plaintiff's § 1983 lawsuit for bias and denial of constitutional rights. Recusal is the only way to protect Plaintiff's right to a fair tribunal.

Plaintiff swears under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this motion is filed in good faith, based on evidence bias and judicial misconduct.

#### Request for Relief

Plaintiff-Appellant respectfully requests that this Court

1. Direct the immediate recusal of Judge Kristi M. Davis from presiding over this matter pending resolution of the related case by the U.S. Supreme Court.
2. Assign a neutral and impartial judge to oversee proceedings in the interim, and
3. Preserve Plaintiff-Appellant's right to a fair and impartial tribunal.

Respectfully submitted,



Biobele Georgewill, Plaintiff-Appellant, Pro Se  
423-561-5480

## AFFIDAVIT OF PLAINTIFF

State of Tennessee.

County of Hamilton

Before me, the undersigned Notary Public, personally appeared Biobele Georgewill, who, being duly sworn, deposes and says

- 1 I am the Plaintiff in the above-captioned case
- 2 The statements made in the foregoing motion are true and correct to the best of my knowledge, information, and belief
- 3 I understand that under Tennessee law making a false statement in this affidavit is subject to penalties of perjury pursuant to Tenn. Code Ann. § 39-16-702

Further affiant sayeth naught



Biobele Georgewill  
Plaintiff

SUBSCRIBED AND SWORN TO before me this 17th day of October, 2025

Notary Public, State of Tennessee



My Commission Expires 03/16/2027



## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion to Recuse Judge Kristi M Davis was served by email on October 17, 2025, to:

**Joshua Ball, Esq**  
Email: [jball@hdclaw.com](mailto:jball@hdclaw.com) and [treed@hdclaw.com](mailto:treed@hdclaw.com)



**Biobele Georgewill Plaintiff-Appellant**  
**423-561-5480**  
**[Biogeorgewill@gmail.com](mailto:Biogeorgewill@gmail.com)**

IN THE COURT OF APPEALS OF TENNESSEE  
AT KNOXVILLE

FILED  
11/06/2025  
Clerk of the  
Appellate Courts

**BIOBELE GEORGEWILL v. CMH HOMES INC.**

**Circuit Court for Hamilton County  
No. 25C778**

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**No. E2025-01606-COA-R3-CV**

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**ORDER**

On October 17, 2025, the appellant, Biobele Georgewill ("Appellant"), filed a motion pursuant to Rule 10B of the Rules of the Supreme Court of Tennessee seeking to have Judge Kristi M. Davis of the Tennessee Court of Appeals recused from hearing this appeal. Appellant's motion alleges no grounds that would require recusal by the undersigned judge. Appellant's primary allegation for the undersigned judge's recusal stems from the undersigned judge's previous employment as a partner at the law firm of Hodges, Doughty & Carson, PLLC. However, the undersigned judge was last employed at Hodges, Doughty & Carson, PLLC in 2014, which is eleven years ago. Since that time, the undersigned judge has had no further affiliation with the law firm. See *Tyus v. Pugh Farms, Inc.*, No. W2011-00826-COA-R3-CV, 2012 WL 938509, at \*4 (Tenn. Ct. App. Mar. 19, 2012) (holding that recusal was not required when more than thirteen years had passed since the judge had any business dealings with his former law firm and over ten years had passed since the judge had received any compensation for outstanding legal matters owed to him by the law firm).

Rule 1.2 of the Code of Judicial Conduct as set forth in Rule 10 of the Rules of the Supreme Court of Tennessee provides that "a judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety." Furthermore, Rule 2.11 of the Code of Judicial Conduct requires disqualification in the event that a "judge's impartiality might reasonably be questioned." Mere speculation that a judge's ability to be impartial will be affected by a prior relationship between the judge and a party or witness is likely not sufficient to necessitate recusal of the judge. *Kelly M. v. Agness M.*, No. E2024-00629-COA-T10B-CV, 2024 WL 2564454, at \*7 (Tenn. Ct. App. May 23, 2024). Instead, allegations of bias or prejudice "must be based on facts, not speculation or innuendo." *Id.* (quoting *Runyon v. Runyon*, No. W2013-02651-COA-T10B-CV, 2014 WL 1285729, at \*9 (Tenn. Ct. App. Mar. 31, 2014)).

Appellant further states in her motion that she has filed a petition for writ of certiorari with the United States Supreme Court that remains pending that "could prejudice Plaintiff-Appellant and affect her right to a fair and impartial adjudication." Such petition for writ of certiorari involves the undersigned judge's denial of a previous recusal motion involving the same allegations as the current motion for recusal. As the Tennessee Supreme Court has explained, recusal of a judge is not required "simply because the person seeking recusal has filed some type of complaint against the judge." *See Salas v. Rosdeutscher*, No. M2021-00157-COA-T10B-CV, 2021 WL 830009, at \*3 (Tenn. Ct. App. Mar. 4, 2021) (citing *Moncier v. Bd. of Prof'l Responsibility*, 406 S.W.3d 139, 162 (Tenn. 2013)). In order to require recusal, the movant must present additional evidence demonstrating bias or prejudice resulting from the complaint filed against the judge. *Salas*, 2021 WL 830009, at \*3.

The undersigned judge does not have an actual bias or prejudice against or toward Appellant in this appeal, nor is the undersigned judge biased in favor of the law firm of Hodges, Doughty & Carson, PLLC, or the law firm's client. In addition, no person of ordinary prudence in the undersigned judge's position, knowing all of the facts as alleged in the motion and known to the undersigned judge, would find a reasonable basis to question the undersigned judge's impartiality in this case. *Cf. Smith v. State*, 357 S.W.3d 322, 341 (Tenn. 2011) (noting that recusal is required, even if a judge subjectively believes he or she can be fair and impartial, whenever "the judge's impartiality might be reasonably questioned because the appearance of bias is as injurious to the integrity of the judicial system as actual bias." (quoting *Bean v. Bailey*, 280 S.W.3d 798, 805 (Tenn. 2009))).<sup>1</sup> We note that Appellant has filed similar motions in other appeals before this Court, which have all been denied. Furthermore, the Tennessee Supreme Court reviewed the undersigned judge's denial of one of Appellant's previous recusal motions and determined that even if Appellant had complied with the relevant procedural rules, "no person of ordinary prudence could reasonably question Judge Davis's impartiality in this case." *See Biobele Georgewill v. Joshua M. Ball et al.*, No. E2025-00911-SC-R10-CV, Ord. (Tenn. Sup. Ct. Aug. 29, 2025). As such, the Supreme Court denied the recusal appeal. *Id.*

Because Appellant's motion to recuse lacks a factual or legal basis, Appellant's motion to recuse is hereby DENIED.



KRISTI M. DAVIS, JUDGE

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<sup>1</sup> Appellant relies in part on Tenn. Code Ann. § 17-1-101 as a basis for the undersigned judge's recusal, which requires that a judge of this Court be at least thirty (30) years of age. The undersigned judge has met the age requirement in section 17-1-101.

**IN THE CIRCUIT COURT FOR HAMILTON COUNTY, TENNESSEE**

BIOBELE GEORGEWILL, )  
Plaintiff / Appellant, )  
v. ) No. 25C778  
CMH HOMES INC. d/b/a CLAYTON HOMES, )  
Defendant / Appellee. )

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**DEFENDANT CMH HOMES INC. d/b/a CLAYTON HOMES' OBJECTION TO AND  
MOTION TO STRIKE PLAINTIFF'S STATEMENT OF THE EVIDENCE**

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Comes the Defendant, CMH Homes Inc. d/b/a Clayton Homes (hereinafter "Clayton Homes"), by and through counsel, pursuant to Tenn. R. App. P. 24(c) and 24(e), and respectfully objects to and moves to strike Plaintiff's Statement of Evidence.<sup>1</sup> In support, Clayton Homes would show unto the Court as follows:

**INTRODUCTION**

On June 17, 2025, Plaintiff filed the instant lawsuit alleging claims of fraud in the inducement, breach of escrow agreement, fraud, and breach of contract against Clayton Homes related to her purchase of a manufactured home from Clayton Homes. Clayton Homes moved to dismiss the action, which the Court granted. Thereafter, Plaintiff filed multiple motions challenging the Court's dismissal of the action. On October 13, 2025, the Court entered a final order denying Plaintiff's Motion to Alter or Amend the Order of Dismissal. Plaintiff filed a notice

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<sup>1</sup> Clayton Homes will refer to the document filed by Plaintiff on October 21, 2025, as a "Statement of Evidence" because that is how Plaintiff title the document; however, as discussed herein, Clayton Homes maintains said document is not "a fair, accurate and complete account of what transpired" and thus, is not a valid statement of the evidence pursuant to the requirements of Tenn. R. App. P. 24(c).

of appeal and appellate brief on October 15, 2025. On October 21, 2025, Plaintiff filed a Statement of Evidence (“the Statement”).

Clayton Homes objects to and requests this Court to strike the Statement because Plaintiff has failed to comply with Tennessee Rule of Appellate Procedure 24. First, the Statement should be rejected, at least with regard to the August 25, 2025 hearing, because a transcript of the proceedings was available. As a result, Plaintiff was required to either file the entire transcript or designate the relevant parts to be considered on appeal. *See* Tenn. R. App. P. 24(b). In addition, the Statement should be rejected because it does not provide a fair, accurate, or complete account of what transpired regarding the issues on appeal. The Statement contains brief explanations of Plaintiff’s arguments and the Court’s rulings, scantily summarizes Clayton Homes’ arguments, fails to provide an accurate record of the verbal exchanges and exhibits presented during the proceedings, and completely omits the underlying facts of the dispute. Thus, the Statement of the Evidence is not a fair, accurate, or complete account of what transpired.

#### LAW AND ARGUMENT

When no transcript of evidence or proceedings is available, “the appellant shall prepare a statement of the evidence or proceedings from the best available means, including the appellant’s recollection.” Tenn. R. App. P. 24(c). “The statement should convey a fair, accurate and complete account of what transpired with respect to those issues that are the bases of appeal.” *Id.* Upon the appellant’s filing of a Statement of the Evidence, the appellee has fifteen days to file an objection. *Id.* Any differences regarding the Statement of the Evidence “shall be submitted to and settled by the trial court regardless of whether the record has been transmitted to the appellate court. Absent extraordinary circumstances, the determination of the trial court is conclusive.” Tenn. R. App. P. 24(e).

Rule 24 “express[es] a preference for a verbatim record if reasonably available, and an approval of other statements of evidence and proceedings if a verbatim record is not available.” *Beef N' Bird of Am., Inc. for Use & Benefit of Galbreath v. Cont'l Cas. Co.*, 803 S.W.2d 234, 240 (Tenn. Ct. App. 1990). Here, a hearing on Clayton Homes’ motion to dismiss was conducted on August 25, 2025. Clayton Homes hired a court reporter for the hearing and has filed a transcript of the hearing contemporaneously with this objection to be included in the record on appeal. Thus, a statement of the evidence regarding the August 25, 2025 hearing on the motion to dismiss is improper. For this reason, Clayton Homes requests that the section titled “First Hearing (Motion to Dismiss)” in the Statement be stricken from the record.

Clayton Homes objects to the remaining sections of the Statement, titled “Second Hearing (Motion to Set Aside Dismissal #1)” and “Third Motion (Motion to Set Aside Dismissal #2 / Motion to Alter or Amend)”, as incomplete and inaccurate. The purpose of a transcript or statement of the evidence is “simply to convey an accurate record of the verbal exchanges and exhibits presented during the proceedings.” *Watson v. City of Jackson*, 448 S.W.3d 919, 931 (Tenn. Ct. App. 2014). The Statement is far from an accurate record of the verbal exchanges and exhibits presented because it only briefly recites Plaintiff’s arguments and the Court’s rulings but makes no mention of any exchange involving Clayton Homes or its attorneys. In fact, the second and third sections of the Statement include *absolutely no mention* of Clayton Homes. For this reason, Clayton Homes requests that the sections titled “Second Hearing (Motion to Set Aside Dismissal #1)” and “Third Motion (Motion to Set Aside Dismissal #2 / Motion to Alter or Amend)” in the Statement be stricken from the record.

WHEREFORE, Clayton Homes respectfully objects to and moves to strike Plaintiff's Statement of the Evidence.

Respectfully submitted this 4th day of November, 2025.

**HODGES, DOUGHTY & CARSON, PLLC**

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