

**IN THE DISTRICT COURT OF APPEAL
IN THE DISTRICT COURT OF APPEAL
FOURTH DISTRICT OF FLORIDA**

MAGGY HURCHALLA,

Appellant,

**DCA CASE NO: 4D18-1221
LOWER CASE NO.: 2013-CA-
001321**

v.

**LAKE POINT PHASE I, LLC, and
LAKE POINT PHASE II, LLC,
Florida Limited Liability Companies,**

Appellees.

**LAKE POINT'S MOTION TO
SUPPLEMENT THE RECORD ON APPEAL**

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Appellees, Lake Point Phase I, LLC and Lake Point Phase II, LLC (collectively, “**Lake Point**”), through their undersigned counsel and pursuant to Rule 9.200(f), hereby move to supplement the Record on Appeal, and state as follows:

1. On August 8, 2018, the clerk of court transmitted the Record on Appeal, which includes, in pertinent part, Plaintiff’s Trial Exhibit 30—a PowerPoint presentation prepared by an Engineer for the South Florida Water Management District, Jeffrey Kivett. (R. at 6735–60).

2. At trial, Mr. Kivett’s PowerPoint presentation was admitted into evidence without objection. (T. at 708:10–708:20). It was then published to the jury in full color on a large monitor while video excerpts from Mr. Kivett’s deposition were played. (T. at 702:14–702:17; 705:5–705:8; 707:8–708:20).

3. The full color version of Plaintiff’s Trial Exhibit 30 that was shown to the jury and admitted into evidence at trial is contained within the corresponding appendix to this motion (the “**Full Color Exhibit**”).

4. Despite being published to the jury in full color, when the clerk of court prepared the Record on Appeal, Plaintiff’s Trial Exhibit 30 was scanned in black and white. (R. at 6735–60). Indeed, the bookmarks created by the clerk of court in the electronic Record on Appeal expressly state that this Exhibit and the images therein were scanned only in black and white.

5. The black and white version prepared by the clerk of court is more difficult to view than the full color version.

6. Accordingly, because the trial court and the jury were presented Plaintiff's Trial Exhibit 30 in full color, Plaintiff respectfully requests to supplement the Record on Appeal with the Full Color Exhibit.

WHEREFORE, Lake Point respectfully requests that this Court enter an Order Supplementing the Record on Appeal to add the full color version of Plaintiff's Trial Exhibit 30, which is included in the appendix to this motion.

/s/ Michael J. Labbee _____

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of November 2018, a true and correct copy of **the foregoing** has been furnished via e-mail to: **DAVID W. OGDEN**, david.ogden@wilmerhale.com, **JAMIE S. GORELICK**, jamie.gorelick@wilmerhale.com, **DAVID LEHN**, david.lehn@wilmerhale.com, **JUSTIN BAXENBERG**, justin.baxenberg@wilmerhale.com, **MEGHAN M. INGRISANO**, meghan.ingrisano@wilmerhale.com, Wilmer Cutler Pickering Hale

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/s/ Michael J. Labbee
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