

**IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA**

<b>CARRINGTON MORTGAGE</b>	)	
<b>SERVICES LLC</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Case No.: 2014 CA 007956R(RP)</b>
	)	
<b>v.</b>	)	
	)	
<b>ELLIOTTE P. COLEMAN ET AL</b>	)	
	)	
<b>Defendant,</b>	)	

**PRAECIPE**

Comes now, Plaintiff, by and through counsel, and at the request of this Court, respectfully files the attached copy of Appellees brief filed in the Court of Appeal attached hereto.

Respectfully submitted,

/s/ Daniel J. Pesachowitz, Esquire

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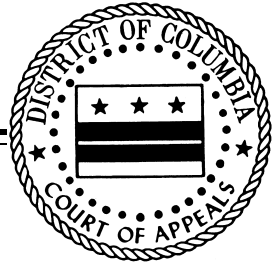
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 7<sup>th</sup> day of March 2024 a copy of the foregoing was served by electronic means or mailed by first class mail to, postage prepaid, to the following parties in interest:

Elliott P. Coleman  
2730 Knox Terrace SE  
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/s/Daniel J. Pesachowitz  
Daniel Pesachowitz, Esq.# 475099

No. 21 CV 744



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*In the*  
**District of Columbia**  
**Court of Appeals**

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ELLIOTTE PATRICK COLEMAN,

*Appellant,*

v.

CARRINGTON MORTGAGE SERVICE, LLC,

*Appellee.*

*On Appeal from the Superior Court of the District of Columbia  
in Case No. 2014 CA 007956 R(RP), Honorable Robert R. Rigsby, Judge*

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**BRIEF FOR APPELLEE**

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March 3, 2022

**DISTRICT OF COLUMBIA COURT OF APPEALS  
Nos. 21-CV-744**

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ELLIOTTE P. COLEMAN  
Appellant,

v.  
CARRINGTON MORTGAGE SERVICES, LLC,  
Appellee.

---

**CORPORATE DISCLOSURE STATEMENT FOR APPELLEE  
CARRINGTON MORTGAGE SERVICES, LLC**

The undersigned counsel for Carrington Mortgage Services, LLC, certifies as follows:

**A. Parties and Counsel**

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*Counsel for Appellee Carrington Mortgage Services LLC*

2. Elliotte P. Coleman  
2730 Knox Terrace SE  
Washington DC 20020  
*Appellant*

**B. For Carrington Mortgage Services, LLC**

1. Carrington Mortgage Services, LLC is a Delaware limited liability company.

2. Carrington Mortgage Services, LLC's members are Carrington Holding Company, LLC and Carrington Investment Partners, L.P.

3. Carrington Holding Company, LLC is a Delaware limited liability company, whose sole member is The Carrington Companies, LLC.

4. Carrington Investment Partners, L.P. is a Delaware limited partnership, whose general partner is Carrington Capital Management, LLC.

5. Carrington Capital Management, LLC is a Delaware limited liability company, whose members are Carrington Holding Company, LLC, and a private individual.

6. The Carrington Companies, LLC is a Delaware limited liability company, whose members are two private individuals.

7. There are no publicly held corporations holding stock in the amount of 10% or more in The Carrington Companies, LLC, or its members.

Dated: March 3, 2022  
Washington, D.C.

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## **I. RESTATEMENT OF ISSUES PRESENTED FOR REVIEW**

1. Did Coleman timely appeal the November 13, 2020, Order granting a prefiling injunction?
2. Did the Court properly deny Coleman’s Motion to Lift the Prefiling Injunction?
3. Should this Court decline to issue an opinion as to issues raised by Coleman that are not supported by any of the evidence in this record for litigation and therefore fall outside the scope of the record?

## **II. STATEMENT OF THE CASE**

This case concerns a contested judicial foreclosure of Coleman’s real property. Carrington<sup>1</sup> was eventually granted summary judgment for judicial foreclosure. Defendant Elliotte Coleman (“Coleman”) subsequently appealed and in the course of these proceedings, on November 13, 2020, the Superior Court entered the subject Order granting Carrington’s Request for a Prefiling Injunction as to Coleman (the “Order”). Coleman did not appeal the Order.

On August 24, 2021, the Court of Appeals remanded the matter to this Court for further proceedings. Carrington thereafter filed a motion to set a status hearing so as to update this Court and move the case forward, including addressing the limited issue, relative to standing, raised by this Court. On September 14, 2021,

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<sup>1</sup> Carrington Mortgage Services LLC was substituted as Plaintiff in place of Bank of America NA by Order dated January 11, 2018.

Coleman filed an opposed motion requesting that the prefiling injunction be lifted. On October 21, 2021, the Superior Court denied Coleman’s Motion requesting that the prefiling injunction be lifted. This Appeal followed.

### **III. RESTATEMENT OF FACTS RELEVANT TO ISSUES ON REVIEW**

Coleman is the sole owner of the real property and improvements located at 2730 Knox Terrace SE, Washington, DC 20020 in the District of Columbia (the “Property”). [Apx. 9 at ¶].<sup>2</sup> On December 1, 2000, Plaintiff encumbered the Property with a deed of trust (“Deed of Trust”) securing repayment of a promissory note executed by Coleman in the original principal amount of One Hundred Forty Six Thousand One Hundred Seventy Nine and 00/100 Dollars (\$146,179.00) (“Note”). [Apx. 9at ¶ 6]. On December 8, 2000, the Deed of Trust was recorded with the recorder of deeds for the District of Columbia as Document Number 2000112288. [Apx. 9 at ¶ 7]. Carrington is the current holder of the Note and beneficiary of the Deed of Trust. [Apx. 9 at ¶ 8].

On April 1, 2005, Coleman defaulted on the Note by failing to make the required payments due and owing under the Note. [Apx. 15 at No. ¶6]. On March 19, 2014, pursuant to the Deed of Trust, Plaintiff caused to be mailed to Coleman a demand letter stating the total amount needed to cure the default.

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<sup>2</sup> The Appellant failed to comply with Rule 30(a) and (b). Notwithstanding the failure to comply with Rule 30, unless otherwise noted, all references to the Apx. refer to the appendix filed by the Appellant.

[Apx. 15 at No. ¶ 7]. The default was not timely cured and pursuant to the terms of the Deed of Trust the loan was accelerated. [Apx. 15 at No. ¶ 8]. As of January 23, 2015, \$298,399.00 is due and owing, plus costs or fees incurred herein. [Apx. 40 at ¶ 2].

On December 12, 2014, Carrington's predecessor-in-interest, Bank of America N.A., filed a Verified Complaint to foreclose the Deed of Trust. [Apx. 9]. On January 23, 2015, Coleman filed his Answer contesting the relief requested. [ *See generally* Superior Court case 2014 CA 007956 R(RP) at docket entry dated January 23, 2015]. After discovery and multiple mediations, on June 6, 2016, Carrington filed an opposed motion for summary judgment. [ *See generally* Superior Court case 2014 CA 007956 R(RP) at docket entry dated June 6, 2016]. On July 12, 2016, the Superior Court denied the motion for summary judgment without prejudice. [ *See generally* Superior Court case 2014 CA 007956 R(RP) at docket entry dated June 6, 2016]. Several discovery motions followed including Coleman's motion to stay proceedings. [ *See generally* Superior Court case 2014 CA 007956 R(RP) docket at entry dated July 12, 2016]. On August 23, 2018, Carrington filed an opposed renewed motion for summary judgment. [Apx. 15].

On November 14, 2018, the Superior Court entered a fourteen (14) page Omnibus Order that, among other procedural matters, granted the motion for

summary judgment and decree of sale (the “Omnibus Order”). [Apx. 16]. On November 18, 2018, Coleman noted an appeal of the Omnibus Order. [See D.C. Court of Appeals Case No. 18-CV-1241]. In that appeal Coleman filed four (4) motions for expansion of time to file his brief, claiming a pending motion in the Superior Court and "new evidence" regarding standing as reasons for the request. [See *id.*]. The appeal was finally dismissed after Coleman failed to file his brief despite the extensions. [ *Id.*]

On January 17, 2019, Coleman filed an opposed emergency motion to vacate the Omnibus Order. [Apx. 13 at ¶ 1]. Carrington filed its opposition to said motion on January 31, 2019. [Id. and *see also generally* Superior Court case 2014 CA 007956 R(RP) at docket entry dated January 17 and 31, 2019]. Also, on January 28, 2019, Coleman filed a motion to stay pursuant to "D.C. Super. Ct. Civ. R. 62(a)(b)" and on February 15, 2019, filed another motion to stay. [See *generally* Superior Court case 2014 CA 007956 R(RP) at docket entry dated January 28, 2019 and February 15, 2019]. On February 26, 2019, the Superior Court entered an Order denying Coleman’s emergency motion to vacate order and judgment and denying his emergency motion to stay. [See *generally* Superior Court case 2014 CA 007956 R(RP) at docket entry dated February 26, 2019].

Consequently, and pursuant to the terms of the Superior Court’s Omnibus Order, Carrington conducted a foreclosure sale of the subject property on March

19, 2019. [Apx. 16; Apx. 17]. On April 3, 2019, Carrington moved to ratify the foreclosure sale, which Coleman opposed on June 14, 2019. *See generally* Superior Court case 2014 CA 007956 R(RP) at docket entry dated April 3, 2019 (Carrington's Motion to Ratify Sale The Superior Court granted Carrington's motion to ratify the sale on June 17, 2019. [Apx. 31].

Despite no longer owning the subject property, and multiple orders denying him any relief, Coleman continued to delay final resolution by filing multiple meritless motions. In particular, on June 30, 2019, Coleman filed an opposed amended opposition to the motion to for ratification of sale and motion to vacate the order for judgment and the order for judicial foreclosure and decree of sale. [Apx. 31]. On July 29, 2019, the Superior Court entered an order denying the aforementioned motion to ratify sale. [*See generally* Superior Court case 2014 CA 007956 R(RP) at docket entry dated April 3, 2019].

On August 25, 2019, Coleman filed another motion requesting the court alter or amend a judgment. This time requesting the July 29, 2019 order be altered or amended to address purported new evidence and new arguments, but which was really a rehash of arguments he made in his June 30, 2019 motion. [Apx. 36]. On September 25, 2019, the Superior Court entered an order denying Coleman's motion requesting the Court alter or amend its July 29, 2019 order and ratified the post-sale audit. [Apx. 37].

Coleman subsequently noticed an appeal of the September 25, 2019, order and on December 12, 2019, this Court entered a briefing order requiring Coleman's brief be filed by January 21, 2020. *See generally* D.C. Court of Appeals case # 19-CV-0970. Having failed to file a brief or provide a copy of the proposed joint appendix pursuant to D.C. App. R. 30(b)(1), on January 21, 2020, Coleman filed a motion for expansion of time to file his brief, claiming to need more time because of an ancillary eviction matter pending in the D.C. Superior Court Landlord Tenant Branch. *See id.* and D.C. Superior Court Case No. 2019 LTB 021337. Carrington filed its opposition on January 22, 2020. *Id.* This Court, on February 6, 2020, granted the extension to February 20, 2020. *Id.*

Having failed to file a brief or appendix as required by this Court's February 6, 2020 order, Coleman, on February 18, 2020, filed a second motion for extension of time to file brief and request for preliminary hearing or in the alternative request to withdraw appeal (the "Second Extension Request"). *Id.* On March 10, 2020, this Court, over Carrington's objection, entered an order granting the Second Extension Request to March 20, 2020. *Id.* This Court noted that any further requests for extensions of time would be looked upon with disfavor and granted only upon showing of good cause. *Id.*

Despite the aforementioned order Coleman moved a third time for an extension of time, until May 20, 2020 (the "Third Extension Request"). *Id.* On

March 25, 2020, Carrington filed its opposition to the Third Extension Request. *Id.* Then on May 20, 2020, Coleman filed what he captioned as a supplement and resubmission of the March 20, 2020 expansion of time to file brief, but in essence was nothing more than a fourth request for an extension to file his brief (“Fourth Extension Request”). *Id.* Despite Carrington’s timely opposition, this Court, on June 19, 2020, granted the Fourth Extension Request, extending the deadline for Coleman to file his brief to June 30, 2020, a date over five months beyond the original date set by the Court. *Id.*

True to form, Coleman, on June 30, 2020, filed an opposed motion for reconsideration, which was essentially a fifth request for an extension of time to perfect his appeal. *Id.* This Court, on July 15, 2020, denied the motion for reconsideration but provided Coleman an additional 20 days to file the brief and appendix. *Id.*

Then on August 5, 2020, Coleman filed what was essentially his sixth request for an extension based on illness and in particular the belief that he contracted COVID-19 and was therefore unable to prepare the brief and appendix as required. Coleman claimed he was so weak he was "struggling to type" and that he was "near death." [*Id.* at docket dated August 5, 2020] Considering Coleman’s purported ill health, on August 5, 2020, Carrington consented to an additional twenty (20) days for Coleman to file his brief and appendix, on the condition that

Coleman provide the Court with verification of his condition and that no further extensions be granted. *Id.*

Seven days later, despite his alleged incapacitation, Coleman filed a thirty-three-page motion in the Superior Court requesting relief from judgment on the same grounds he previously argued in numerous prior motions. [Apx. 38].

Carrington thereafter filed in the Superior Court a motion for a prefiling injunction. [See generally Superior Court case at docket entry dated September 16, 2020]. On September 22, 2022, the Superior Court issued an order denying the request for relief from judgment. [Apx. 39]. On September 23, 2020, Coleman filed his brief for appeal no. 19-CV-970. Then on September 24, 2020, Coleman noticed his appeal of the order denying the request for relief from judgment. See generally Superior Court case 2014 CA 007956 R(RP) at docket dated September 24, 2020.

On October 19, 2020, this Court *sua sponte*, entered an order consolidating the two pending appeals (19-CV-970, 20-CV-572) and ordered that Coleman file his brief addressing the issues raised in appeal no. 20-CV-572, including the documents required by D.C App. R. 30(a)(1), no later than November 28, 2020. [See generally D.C. Court of Appeals case # 20-CV-572].

Then on November 16, 2020, the Superior Court entered the Order granting Carrington's request for a prefiling injunction as to Coleman. [Apx. 40]. Coleman



did not appeal this order. [*See generally* Superior Court case 2014 CA 007956 R(RP)].

In the consolidated appeal, Coleman filed, on November 27, 2020, another motion for an extension, claiming a need to access Library of Congress records. [*See generally* D.C. Court of Appeals case # 20-CV-572 at docket dated November 7, 2020]. On December 15, 2020, this Court granted the extension and required the brief be filed within ten (10) calendar days. *Id.* at docket dated December 15, 2020]. On December 28, 2020, Coleman filed his brief related to appeal no. 20-CV-572. [*Id.* at docket dated December 28, 2020].

On August 24, 2021, this Court remanded the matter to the Superior Court for further proceedings. [Apx. 41]. Carrington thereafter filed a motion to set a status hearing so as to update the Superior Court and move the case forward including addressing the limited issue, relative to standing, raised by this Court. *See generally* Superior Court case 2014 CA 007956 R(RP) at docket entry dated September 15, 2021].

On September 14, 2021, Coleman filed an opposed motion requesting that the November 13, 2020, pre-filing injunction be lifted. [Apx. 42]. On October 21, 2021, the Superior Court denied Coleman's motion requesting that the pre-filing injunction be lifted. [Apx. 43]. This appeal followed.

Coleman's filings should not be reviewed in a vacuum but instead this Court should be cognizant that Coleman's delay tactics are all part of a concerted effort to delay the foreclosure proceeding and waste the time and resources of the Court of Appeals, the Superior Court and Carrington.

#### IV. STANDARD OF REVIEW

This Court reviews an order denying a motion to vacate for abuse of discretion. *See Hefazi v. Stiglitz*, 862 A.2d 901, 908 (D.C. 2004), *citing Lynch v. Meridian Hill Studio Apts., Inc.*, 491 A.2d 515, 517 (D.C.1985). This Court reviews the trial court's decision in favor of granting a preliminary injunction for abuse of discretion. *See District of Columbia v. Group Ins. Admin.*, 633 A.2d 2, 21 (D.C. 1993); *Feaster v. Vance*, 832 A.2d 1277, 1282 (D.C. 2003)

Coleman's brief distracts this Court from the limited issue of whether the pre-filing injunction is proper by spending significant time on the underlying dispute, i.e., the judicial foreclosure. But this Court's role on review is not to resolve the merits of the underlying dispute between the litigants. Rather, the Court is to (1) examine the trial court's findings and conclusions to see if they are sufficiently supported by the record; (2) assure that the trial court's analysis reflects a resolution of all the issues which necessarily underlie the issuance of an injunction; and (3) inquire into any other claims of an abuse of discretion by the

trial court. *See Don't Tear It Down, Inc. v. District of Columbia*, 395 A.2d 388, 389 (D.C. 1978)

Applying these standards to this matter it is clear that the trial court properly denied the motion for leave to lift the prefiling injunction. As such, this Court must affirm the Superior Court's findings.

## V. SUMMARY OF ARGUMENT

Coleman did not appeal the Order within thirty 30 days after its entry and therefore is barred from now appealing the Order. DCCA Rule 4 (a)(1).

As to Coleman's timely appeal of the October 21, 2021, Superior Court order denying his motion requesting that the prefiling injunction be lifted, this Court should affirm the order because the Superior Court properly considered the factors set out in *Safir v. United States Lines, Inc.*, 792 F.2d 19, 24 (2d Cir. 1986). After considering the relevant factors the Superior Court did not abuse its discretion and correctly determined that a prefiling injunction was proper.

## VI. ARGUMENT

### A. **Coleman failed to timely appeal the November 13, 2020, Order granting the prefiling injunction.**

The Superior Court entered its order on November 13, 2020 (the "Order"). Coleman did not appeal the Order within thirty (30) days after its entry, [*See generally* Superior Court case 2014 CA 007956 R(RP)].

and therefore is barred from now appealing the Order. DCCA Rule 4 (a)

(1).

**B. The Court Properly Denied Coleman’s Motion to Lift the Prefiling Injunction.**

In deciding whether a prefiling injunction is appropriate, the Court must consider the following factors: (1) the litigant's history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be adequate to protect the courts and other parties. *See Safir*, 792 F.2d at 24. The ultimate question the Court must answer is "whether a litigant who has a history of vexatious litigation is likely to continue to abuse the judicial process and harass other parties." *Id.*

Considering the standard set forth above it is clear from the record in this case that a prefiling injunction is appropriate. Coleman is acting *pro se*, and has had ample opportunity since the institution of this case in December 2014 for him obtain counsel. Coleman has appeared before the Superior Court for oral argument and the Court found that he is an intelligent and articulate individual noting that “Coleman’s understanding of the implications of his filings largely negates the latitude afforded other, less-informed pro se litigants’ voluminous motions

practice.” [Apx. 40 at pg. 3 ¶ 4].

Regardless of representation, Coleman is clearly a vexatious litigant with an extensive history of filing frivolous civil claims in this case and against a variety of defendants in both federal and local courts that were all resolved against him. [Apx. 13, 14, 19, 20, 24, 26, 32, 33, 34, 36, 37, 38, 39, 44].

As in his other cases, Coleman has also proven himself to be harassing and duplicative in litigating this matter. The instant case comports with Coleman’s typical litigation tactics of filing numerous motions that have little or no basis, including a post judgment subpoena, which was quashed [Apx. 21, 22, 23, 24]. , and a motion requesting recusal of the Superior Court Judge.[Apx. 33]. Coleman has filed over nine post judgment motions in this case. [Apx 13 at pg. 10; Apx. 19, 20; Apx. 24 at pg 4; Apx. 32, 33, 36, 38, 44]. Coleman has also filed motions in bankruptcy court and four appeals. [Apx 19, 20; *See generally* Court of Appeals Case No. 21-cv-0744, 20-cv-0572, 19-cv-0970, 18-cv-1241]

Coleman states in his brief, “that Plaintiffs have filed 66 papers in this case. Coleman has filed 68 papers. There is no significant difference in the number of papers filed by the parties in this case.” [Coleman brief at pg. 5 ¶5]. However Coleman fails to mention, or address, the fact the “papers” filed by Carrington in this matter were oppositions or motions Carrington was forced to file in direct response to the vexatious and frivolous motions filed by Coleman. But for

Coleman's insistence on clogging up the Court with a multitude of vexatious and frivolous "papers" Carrington would not have been compelled to file responses.

Furthermore, Coleman filed, in February 2020, a separate civil action in the United States District Court for Western District of North Carolina which also stems from and involves the same arguments he made in this foreclosure proceeding. [Apx. 38 at Ex. G; Apx. 44] He requested the District Court stay this foreclosure. That action was subsequently voluntarily dismissed after his request for temporary restraining order to prevent Carrington from proceeding to enforce its security interest had been denied. [Apx 44 ]. Based upon these facts, it is clear that Coleman is a vexatious, harassing, and duplicative litigant.

As to the good faith of Coleman's case, the content, and the nature of Coleman's motions in this case, all of which rehash arguments already addressed by the Court, suggest Coleman actions are in bad faith. Indeed, it is evident that Coleman, having effectively been denied relief in the United States Bankruptcy Court and the United States District Court for the Western District of North Carolina, has now turned back to this Court for relief.

Coleman's repeated filings have substantially burdened this Court and its staff, and Carrington. As with any other court, "[e]very paper filed with the Clerk . . . no matter how repetitious or frivolous, requires some portion of the institution's limited resources. A part of the [c]ourt's responsibility is to see that these resources

are allocated in a way that promotes the interests of justice." *Corley v. United States*, 741 A.2d at 1030 (quoting *Martin v. District of Columbia Court of Appeals*, 506 U.S. 1, 3-4, 113 S. Ct. 397, 121 L. Ed. 2d 305 (1992)).

Considering plaintiff's history with the courts and his conduct in this case, the Superior Court properly determined that there is no reason to believe any other form of sanctions will cease plaintiff's filing of meritless motions in this case or the initiation of new cases.

Moreover, the fact that the case has been remanded does not in and of itself form a valid basis to vacate the Order, particularly in light of the limited issue on remand, related to standing only, and the fact the Order does not prohibit Coleman from making any filing. Pursuant to the Order Coleman is still free to file provided he seeks leave to do so. Coleman has already taken advantage of this process and the Superior Court has demonstrated its ability to properly apply the injunction to ensure that Coleman has access to the Court as evidenced by Coleman's motion requesting leave to file a motion for recusal which was granted by the Superior Court on November 15, 2021. [ *See generally* Superior Court case 2014 CA 007956 R(RP) at docket entry dated November 15, 2021].

Accordingly, the Order imposing the prefiling injunction is not prejudicial to Coleman as it does not prevent his access to the court. It does not prevent him from filing oppositions or replies but merely requires him to obtain leave in the

event he chooses to file a motion that raises a legitimate issue. This is a narrow sanction that for the reasons noted above does not prejudice Coleman and to the contrary helps to serve a legitimate purpose to ensure judicial economy and prevent vexatious conduct. For these reasons the record shows that the court below did not abuse its discretion but rather considered the facts, weighed the evidence before it, applied the law to those facts, and properly entered the Order denying Coleman's motion to lift the prefiling injunction.

**C. The Court Should Decline To Issue an Opinion as to the Issues Raised that Fall Outside the Scope of the Record**

Coleman's brief spends significant time on the merits of the underlying judicial foreclosure which is not before this Court on this appeal. In reviewing the denial of a motion for a preliminary injunction, the court's role on review is not to resolve the merits of the underlying dispute between the litigants. Rather, the court is to (1) examine the trial court's findings and conclusions to see if they are sufficiently supported by the record; (2) assure that the trial court's analysis reflects a resolution of all the issues which necessarily underlie the issuance of an injunction; and (3) inquire into any other claims of an abuse of discretion by the trial court. *Don't Tear It Down*, 395 A.2d at 389.

Because Appellant's brief attempts to raise issues that are not properly before this Court and are not supported by any of the evidence in this record, the Court should decline to issue an opinion as to the issues raised that fall outside the



scope of the record and substance of this appeal. Appellant's brief and Appendix include and reference a number of documents outside of the record, particularly Apx. 2, 3, 7, 8, 29, 30, 35 Pursuant to D.C. App R. 10(a), "the following items constitute the record on appeal:

- (1) The original papers and exhibits filed in the Superior Court;
- (2) The transcript of proceedings, if any; and
- (3) A certified copy of the docket entries prepared by the Clerk of the Superior Court."

Pursuant to D.C. App. R. 10(e), a party may not make representations to facts outside the record without first filing a motion to supplement the record. *See Flocco v. State Farm Mut. Auto. Ins. Co.*, 752 A.2d 147, 153 (D.C. 2000), *citing Maldonado v. Maldonado*, 631 A.2d 40, 41 n. 1 (D.C.1993) (the court ordinarily will not consider facts outside the record); *Television Capital Corp. of Mobile v. Paxson Commc'ns Corp.*, 894 A.2d 461, 470 (D.C. 2006) ("Of course, this court is precluded from considering any issues that are outside the record that were not pending before the Superior Court."), *as amended on reh'g in part* (July 5, 2006). Accordingly, the items that appear in the index that were never before the Superior Court and are not a part of the record from the Superior Court should not be considered and this Court should decline to rule on any issues raised outside the scope of the record.

## VII. CONCLUSION

For the reasons stated above, the Superior Court properly entered the Order and Coleman failed to timely appeal said Order. Moreover, given Coleman's history of vexatious litigation, the court below did not abuse its discretion in denying Coleman's motion to lift the prefiling injunction. Accordingly, the decision of the Superior Court should be affirmed.

Respectfully submitted,

/s/ Daniel J. Pesachowitz  
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*Counsel for Appellee Carrington  
Mortgage Services LLC*

## CERTIFICATE OF SERVICE

I, Melissa Pickett, being duly sworn according to law and being over the age of 18, upon my oath depose and say that:

Counsel Press was retained by SAMUEL I. WHITE P.C., counsel for the Appellee to print this document. I am an employee of Counsel Press.

On the **3rd Day of March, 2022**, this document will be filed via the Court's electronic filing system which will send a notice of filing to any of the following registered users:

Elliott P. Coleman  
2730 Knox Terrace SE  
Washington DC 20020  
*Appellant*

In addition to service via to the e-filing notice, on this date I served the within **Brief of Appellee** upon the above counsel **via Express Mail**, by causing a true copy of each to be deposited, enclosed in a properly addressed wrapper, in an official depository of the U.S. Postal Service.

The required copies will be delivered to the Court within the time allowed by rule.

March 3, 2022

/s/ Melissa Pickett  
Melissa Pickett  
Counsel Press

# District of Columbia Court of Appeals

## REDACTION CERTIFICATE DISCLOSURE FORM

**Pursuant to Administrative Order No. M-274-21 (filed June 17, 2021), this certificate must be filed in conjunction with all briefs submitted in all cases designated with a “CV” docketing number to include Civil I, Collections, Contracts, General Civil, Landlord and Tenant, Liens, Malpractice, Merit Personnel, Other Civil, Property, Real Property, Torts and Vehicle Cases.**

I certify that I have reviewed the guidelines outlined in Administrative Order No. M-274-21 and Super. Ct. Civ. R. 5.2, and removed the following information from my brief:

1. All information listed in Super. Ct. Civ. R. 5.2(a); including:
  - An individual’s social-security number
  - Taxpayer-identification number
  - Driver’s license or non-driver’s’ license identification card number
  - Birth date
  - The name of an individual known to be a minor
  - Financial account numbers, except that a party or nonparty making the filing may include the following:
    - (1) the acronym “SS#” where the individual’s social-security number would have been included;
    - (2) the acronym “TID#” where the individual’s taxpayer-identification number would have been included;
    - (3) the acronym “DL#” or “NDL#” where the individual’s driver’s license or non-driver’s license identification card number would have been included;
    - (4) the year of the individual’s birth;
    - (5) the minor’s initials; and
    - (6) the last four digits of the financial-account number.

2. Any information revealing the identity of an individual receiving mental-health services.
3. Any information revealing the identity of an individual receiving or under evaluation for substance-use-disorder services.
4. Information about protection orders, restraining orders, and injunctions that “would be likely to publicly reveal the identity or location of the protected party,” 18 U.S.C. § 2265(d)(3) (prohibiting public disclosure on the internet of such information); *see also* 18 U.S.C. § 2266(5) (defining “protection order” to include, among other things, civil and criminal orders for the purpose of preventing violent or threatening acts, harassment, sexual violence, contact, communication, or proximity) (both provisions attached).
5. Any names of victims of sexual offenses except the brief may use initials when referring to victims of sexual offenses.
6. Any other information required by law to be kept confidential or protected from public disclosure.

/s/ Daniel J. Pesachowitz

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Signature

Daniel J. Pesachowitz

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Name

dpesacho@siwpc.com

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Email Address

21-CV-744

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Case Number(s)

March 3, 2022

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Date