

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

LAURA LYNN HAMMETT

PLAINTIFF

v.

Case No. 4:21-cv-00189-LPR

**PORFOLIO RECOVERY
ASSOCIATES LLC**

DEFENDANT

ORDER

This Order addresses Ms. Hammett’s Motion to Settle the Record to Correct Errors and Omissions in the Transcript of [the] December 1, 2021 Hearing.¹ Ms. Hammett asserts that there are four “errors” or “omissions” in the written transcript of the telephonic hearing that took place on December 1, 2021.²

1. Ms. Hammett asserts that the Court Reporter “omitted significant dialogue from the transcript of the 12/1/2021 hearing filed on 8/15/2023.”³ And she, at least generally, pinpoints where in the transcript the allegedly omitted dialogue would have occurred: “The dialogue occurred between page 6 line 13 and page 8 line 13.”⁴ Ms. Hammett’s assertion of an omission is based almost exclusively on her recollection of the dialogue occurring.⁵ Mr. Mitchell, Defendant’s counsel, has “no recollection of the allegedly omitted” dialogue.⁶ Neither does the Court.

¹ Pl.’s Mot. to Settle the Record (Doc. 267). The title of Plaintiff’s Motion also included a reference to the Document number of the relevant transcript: Doc. 260. *See* Jan. 1, 2023 Hr’g Tr. (Doc. 260).

² *See* Pl.’s Mot. to Settle the Record (Doc. 267) at 2.

³ *See id.*

⁴ *Id.*

⁵ *But see* Pl.’s Br. in Supp. of Pl.’s Mot. to Settle the Record (Doc. 268) at 4–5.

⁶ *See* Decl. of David S. Michell, Jr. (Doc. 276-1) at 1.

For the reasons Defendant sets forth in its Response in Opposition to Plaintiff's Motion to Settle the Record,⁷ under the applicable precedent Ms. Hammett has not shown an entitlement to the relief she seeks. However, out of an extreme abundance of caution, the Court decided to double-check the portion of the transcript cited by Ms. Hammett (plus a full page before and after the page range she identified) against the audio recording. That review made clear that there was nothing missing from the transcript. Ms. Hammett's assertion—that something was said but not recorded on or around Pages 6, 7, or 8 of the transcript—is wrong. Accordingly, with respect to this request to settle the record, the Court DENIES Ms. Hammett's Motion.

2. At the December 1, 2021 hearing, there was discussion of a Motion that Ms. Hammett had made concerning Offers of Judgment.⁸ Ms. Hammett is concerned about the transcript's inclusion of “a number for the amount that [she] gave as an example of the amount of the offer of judgment[,]” apparently because that number is different from the highest offer of judgment PRA actually made.⁹ Ms. Hammett acknowledges that she “may have misspoken.”¹⁰ Accordingly, it is unclear to the Court whether Ms. Hammett is suggesting that the number transcribed was different from the number she actually said in the hearing, or whether Ms. Hammett is asking to change the transcript to exclude or alter the number she actually said in the hearing. If the latter, the Court will not alter the transcript. The transcript is intended to be a true reflection of what was actually said at the hearing, regardless of whether what was said was said in error. But perhaps Ms. Hammett is claiming the former.

⁷ See Def.'s Resp. in Opp'n to Pl.'s Mot. to Settle the Record (Doc. 276) at 2.

⁸ See Jan. 1, 2023 Hr'g Tr. (Doc. 260) at 15–17.

⁹ See Pl.'s Br. in Supp. of Pl.'s Mot. to Settle the Record (Doc. 268) at 6.

¹⁰ See *id.* (“The error may have been mine. I may have misspoken.”)

Again, under the applicable precedent Ms. Hammett has not shown an entitlement to the relief she seeks. However, out of an extreme abundance of caution, the Court decided to double-check the portion of the transcript discussing Offers of Judgment against the audio recording. The Court listened to the portion of the audio recording that corresponds to Page 12, Line 16 through Page 20, Line 1. That review made clear that all the dollar figures/numbers transcribed were the actual dollar figures/numbers that Ms. Hammett actually said at the hearing. Accordingly, with respect to this request, the Court DENIES Ms. Hammett's Motion.

3. Ms. Hammett asserts that the word "agreed" on Page 24, Line 11 of the transcript is incorrect.¹¹ She says it "should have been 'disagreed.'"¹² It is unclear if Ms. Hammett is saying the Court Reporter mis-transcribed what she actually said at the hearing, or if Ms. Hammett is just saying that she misspoke. If the latter, the Court will not alter the transcript. The transcript is intended to be a true reflection of what was actually said at the hearing, regardless of whether what was said was said in error. But perhaps Ms. Hammett is claiming the former. If she is, the context of the rest of the transcript page certainly provides some support for the claim—enough support to require a review of the audio. So the Court went back to the audio recording to double-check this portion of the transcript.

On this one, Ms. Hammett is correct. The transcript is wrong. The Court Reporter transcribed Ms. Hammett as saying, "I believe they filed a response, and that I just agreed with it . . ." But, in the audio recording, Ms. Hammett fairly clearly says, "I believe they filed a response, and that I disagreed with it . . ." The Court Reporter must have misheard or mistyped "disagreed" as "just agreed."

¹¹ See *id.*

¹² See *id.*

This error does not have any material impact on Ms. Hammett's appeal. That's for at least two reasons. First, the rest of the transcript makes crystal clear that Ms. Hammett was not agreeing with Defendant on the substance of the point in contention. Accordingly, no one can suggest that Ms. Hammett forfeited or waived an argument. And nothing else other than forfeiture or waiver could even theoretically turn on the transcription error. Second, even if the transcription error mattered (it doesn't), the instant Court Order makes crystal clear to the parties, the public, and the Eighth Circuit what was actually said at the hearing. Accordingly, with respect to this request to settle the record, the Court GRANTS the request insofar as the Court hereby declares that Page 24, Line 11 of the December 1, 2021 hearing transcript should read "disagreed" instead of "just agreed." The Court DENIES all other relief as unnecessary.

4. Ms. Hammett's final assertion of error with respect to this transcript concerns Page 30, Lines 14–15.¹³ Here, it is pretty clear she is arguing that the Court Reporter mis-transcribed her statement by using the phrase "a hundred documents" instead of the phrase "hundreds of documents."¹⁴ The Court decided to double-check the identified portion of the transcript against the audio recording. That review made clear that Ms. Hammett actually said, "a hundred documents" at the hearing. The transcript is right. Ms. Hammett is wrong. She may have meant to say, "hundreds of documents," but that is not what she actually said. Accordingly, with respect to this request to settle the record, the Court DENIES the Motion.

IT IS SO ORDERED this 21st day of September 2023.



LEE P. RUDOFSKY
UNITED STATES DISTRICT JUDGE

¹³ See *id.* at 7.

¹⁴ See *id.*; Jan. 1, 2023 Hr'g Tr. (Doc. 260) at 30 ("And when he said that they gave me a hundred documents")