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**May 23 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM HORRY COUNTY  
Court of Common Pleas

Honorable Kristi F. Curtis, Circuit Court Judge

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Case No.: 2020-CP-26-06286  
Appellate Case No.: 2023-000289

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Jack Kelly,

Appellant,

v.

Roger D. Cox, Cox Millwork & Supply, Cox Properties, LLC, Waterside Drive Boat Ramp, LLC,

Respondents.

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**RESPONDENTS' MOTION TO DISMISS APPEAL**

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Respondents Roger D. Cox, Cox Millwork & Supply, Cox Properties, LLC, and Waterside Drive Boat Ramp, LLC, (hereinafter collectively "Respondents") hereby move for an order dismissing the above-captioned appeal pursuant to Rule 260(a), SCACR.

Rule 207(a)(1), SCACR, requires the Appellant to contemporaneously furnish the Clerk of the Court of Appeals and all parties with copies of all correspondence with the court reporter. Rule 207(a)(7), SCACR, allows Appellant to provide copies of the correspondence with the court reporter via electronic means. Rule 260(a), SCACR, requires the Clerk to issue an order of

dismissal when it appears that Appellant has failed to comply with the requirements of the South Carolina Appellate Court Rules.

On November 29, 2022, Judge Curtis held a hearing on Respondents' motion for summary judgment. On December 29, 2022, Judge Curtis granted Respondents' motion for summary judgment, ending the case. Appellant filed a motion to reconsider, which was denied on February 3, 2023. Appellant filed his notice of appeal with this Court on February 27, 2023. Appellant requested the transcript of the hearing on February 22, 2023, and provided a copy of this correspondence to Respondents on February 23, 2023. *See Ex. A.* Following this correspondence, Respondents did not receive any correspondence from Appellant concerning this appeal.

On May 23, 2023, Respondents' counsel emailed Appellant's counsel requesting an update on the status of the transcript. That same day, Respondent filed the revised transcript and copies of correspondence with the court reporter. Appellant filed two pdf files showing emails between the Appellant and the court reporter with this Court. *See Ex. B; Ex. C.* These emails show that Appellant received the transcript from the court reporter April 26, 2023; that Appellant replied to this email on May 23, 2023, regarding an error in the transcript; and that approximately twenty minutes later, the court reporter replied to Appellant's email regarding the defect. *See Ex. B; Ex. C.* Pursuant to Rule 207(a)(1), SCACR, Appellant should have contemporaneously provided these communications to the Clerk of Court and Respondents' counsel.

Furthermore, the transcript filed with the Court is noted as a "revised" transcript, and the emails between Appellant and the court reporter indicate that a revision will be issued. In the communications filed with this Court, it appears the court reporter was expecting a response prior to issuing the revision. *See Ex. B.* Neither Appellant's response to this email, if it exists, nor the correspondence providing the revised transcript to Appellant were contemporaneously furnished

to the Clerk of Court or Respondents' counsel pursuant to Rule 207(a)(1), SCACR.

The South Carolina Appellate Court Rules are not “mere technicalities.” *Henning v. Kaye*, 307 S.C. 436, 437, 307 S.E.2d 794, 794 (1992) (holding Appellant’s brief failed to comply with the South Carolina Appellate Court Rules). These rules “provide the parties and this Court with an orderly mechanism through which to guide appeals in this State.” *Id.* Appellant has failed to comply with the South Carolina Appellate Court Rules; thus Respondents respectfully request this Court issue an order dismissing the appeal.

Respectfully submitted,

s/ *Emily C. Sheets*

Jeffrey A. Ross, Bar No.: 74254  
Philip P. Cristaldi, III, Bar No.: 102219  
Emily C. Sheets, Bar No.: 78768  
863 Coleman Boulevard, Suite B  
Mt. Pleasant, South Carolina 29464  
Phone: (843) 329-4040  
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[pcristaldi@rclawsc.com](mailto:pcristaldi@rclawsc.com)  
[esheets@rclawsc.com](mailto:esheets@rclawsc.com)

*Attorneys for Respondents*

Mount Pleasant, South Carolina

May 23, 2023

Other counsel of record:

George N. Spirakis., Esq., Kenneth Ray Moss, Esq., Richard Lee Snyder, Esq.  
Wright, Worley, Pope, Ekster, & Moss, PLLC  
628 A Sea Mountain Highway  
North Myrtle Beach, South Carolina 29582  
[georgespirakis@wwpemplaw.com](mailto:georgespirakis@wwpemplaw.com); [kennethmoss@wwpemplaw.com](mailto:kennethmoss@wwpemplaw.com);  
[richardsnyder@wwpemplaw.com](mailto:richardsnyder@wwpemplaw.com);

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**RESPONDENTS' MOTION TO DISMISS APPEAL  
EXHIBIT A**

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## Kaylee Negrin

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**From:** Emily Sheets  
**Sent:** Tuesday, May 23, 2023 3:57 PM  
**To:** Kaylee Negrin  
**Subject:** FW: Jack Kelly, Appellant v. Roger D. Cox, et al.  
**Attachments:** Ltr to Court of Appeals Clerk with Transcript Request Form.pdf

**Categories:** Emerald not copied, Daniel Not Copied, Brent not copied, Scott not copied, Phil not copied, Jeff not copied, Bobbi not copied, Erin not copied, Belle Not Copied

Emily C. Sheets  
843-329-4040  
esheets@rclawsc.com

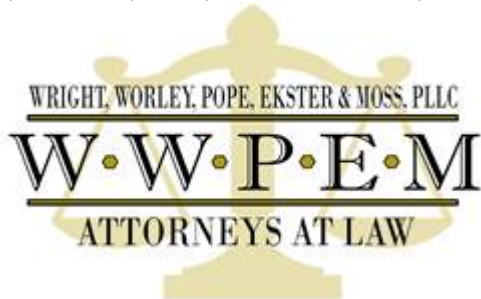
---

**From:** Peggy Weeks <PeggyWeeks@wwpemplaw.com>  
**Sent:** Thursday, February 23, 2023 8:54 AM  
**To:** transcripts@sccourts.com  
**Cc:** Emily Sheets <esheets@rclawsc.com>; Philip Cristaldi <pcristaldi@rclawsc.com>; Jeff Ross <jross@rclawsc.com>  
**Subject:** Jack Kelly, Appellant v. Roger D. Cox, et al.

Dear Sir/Madam:

Attached is a copy of Attorney Spirakis' letter to the Court of Appeals plus a copy of the Transcript Request Form.

**PEGGY WEEKS**  
PARALEGAL  
WRIGHT, WORLEY, POPE, EKSTER & MOSS, PLLC



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N. Myrtle Beach, SC 29582  
(843) 281-9901, Ext. 138  
Fax (843) 281-9903  
[www.wwpemplaw.com](http://www.wwpemplaw.com)

Other Offices:  
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Respondents.

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**RESPONDENTS' MOTION TO DISMISS APPEAL  
EXHIBIT B**

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**From:** [Peggy Weeks](#)  
**To:** [TranscriptionOps@escribers.net](mailto:TranscriptionOps@escribers.net)  
**Cc:** [George N. Spirakis](#); [Court Of Appeals Filings](#)  
**Subject:** RE: SCJB00132 Jack Kelly v. Roger D. Cox, et al.; 2022-CP-26-06286; 11/29/2022;  
**Date:** Tuesday, May 23, 2023 9:19:21 AM

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**\*\*\* EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. **\*\*\***

We have discovered that the incorrect case number appears on the front page of the transcript. The correct case number should be **2020**-CP-26-06286. Please forward a corrected title page for the transcript.

Regards,  
Peggy Weeks

---

**From:** TranscriptionOps@escribers.net <TranscriptionOps@escribers.net>  
**Sent:** Wednesday, April 26, 2023 6:05 PM  
**To:** George N. Spirakis <GeorgeSpirakis@wwpemplaw.com>; Peggy Weeks <PeggyWeeks@wwpemplaw.com>; tholmes@sccourts.org; transcripts@sccourts.org  
**Subject:** SCJB00132 Jack Kelly v. Roger D. Cox, et al.; 2022-CP-26-06286; 11/29/2022;

Please see attached transcript and invoice for job #SCJB00132 – 25 pages – Jack Kelly v. Roger D. Cox, et al.; 2022-CP-26-06286; 11/29/2022.

Thank you,

Jodie Day  
eScribers, LLC  
Phone: 1-800-257-0885  
Email: [sales@escribers.net](mailto:sales@escribers.net)  
7227 N 16th Street  
Suite 207  
Phoenix, AZ 85020

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**RESPONDENTS' MOTION TO DISMISS APPEAL  
EXHIBIT C**

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**From:** [Jodie Day](#)  
**To:** [Peggy Weeks](#); [Transcription Ops](#)  
**Cc:** [George N. Spirakis](#); [Court Of Appeals Filings](#)  
**Subject:** RE: SCJB00132 Jack Kelly v. Roger D. Cox, et al.; 2022-CP-26-06286; 11/29/2022;  
**Date:** Tuesday, May 23, 2023 9:40:29 AM  
**Attachments:** [image001.png](#)

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\*\*\*

I'll be happy to make this correction for you. I just want to verify that you want it changed to 2020-CP-26-06286, as 2022-CP-26-06286 is the number on the paperwork we received with the job.

Thanks so much!  
Jodie



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[order a transcript](#)

**Jodie Day**  
*Fulfillment Specialist*

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**From:** Peggy Weeks <[PeggyWeeks@wwpemlaw.com](mailto:PeggyWeeks@wwpemlaw.com)>  
**Sent:** Tuesday, May 23, 2023 8:19 AM  
**To:** Transcription Ops <[transcriptionops@eScribers.net](mailto:transcriptionops@eScribers.net)>  
**Cc:** George N. Spirakis <[GeorgeSpirakis@wwpemlaw.com](mailto:GeorgeSpirakis@wwpemlaw.com)>; [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)  
**Subject:** RE: SCJB00132 Jack Kelly v. Roger D. Cox, et al.; 2022-CP-26-06286; 11/29/2022;

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Regards,  
Peggy Weeks

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**Sent:** Wednesday, April 26, 2023 6:05 PM  
**To:** George N. Spirakis <[GeorgeSpirakis@wwpemlaw.com](mailto:GeorgeSpirakis@wwpemlaw.com)>; Peggy Weeks <[PeggyWeeks@wwpemlaw.com](mailto:PeggyWeeks@wwpemlaw.com)>; [tholmes@sccourts.org](mailto:tholmes@sccourts.org); [transcripts@sccourts.org](mailto:transcripts@sccourts.org)  
**Subject:** SCJB00132 Jack Kelly v. Roger D. Cox, et al.; 2022-CP-26-06286; 11/29/2022;

Please see attached transcript and invoice for job #SCJB00132 – 25 pages – Jack Kelly v. Roger D. Cox, et al.; 2022-CP-26-06286; 11/29/2022.

Thank you,

Jodie Day  
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**CERTIFICATE OF SERVICE**

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I, the undersigned counsel for the Respondents Roger D. Cox, Cox Millwork & Supply, Cox Properties, LLC, and waterside Boat Ramp, LLC, hereby certify that on May 23, 2023, a copy of the Motion to Dismiss of Respondents is being served on counsel for the Appellant as follows and filed via electronic mail with the Clerk of the South Carolina of Appeals.

May 23, 2023

**[SIGNATURE BLOCK TO FOLLOW]**

Respectfully,

s/ Emily C. Sheets

Jeffrey A. Ross, Bar No.: 74254

Philip P. Cristaldi, III, Bar No.: 102219

Emily C. Sheets, Bar No.: 78768

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Mt. Pleasant, South Carolina 29464

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Email: [jross@rclawsc.com](mailto:jross@rclawsc.com)

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Other counsel of record:

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Wright, Worley, Pope, Ekster, & Moss, PLLC

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[richardsnyder@wwpemplaw.com](mailto:richardsnyder@wwpemplaw.com);