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October 4, 2024

## VIA E-MAIL & U.S. MAIL

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**RECEIVED**

**Oct 04 2024**

**SC Court of Appeals**

**Re: *John Doe #53, et al. v. The Bishop of Charleston, et al.***  
**Appellate Case No: 2023-000720**  
**BPWM File No.: 3-716-134.012**

Gregg:

The South Carolina Court of Appeals issued an Order in this appeal on August 23, 2024 directing you to “serve—via an approved method of service pursuant to Rule 262(c), SCACR, and the supreme court’s order regarding electronic service—and file an amended record on appeal that includes all items designated by the parties and is consecutively paginated.” As far as I am aware, that order has not been followed.


First, the record has not been served “via an approved method of service pursuant to Rule 262(c), SCACR, and the supreme court’s order regarding electronic service.” As noted in the motion to dismiss we filed in April of this year, Rule 262 provides various alternative methods for service. With regard to electronic service, the Rule states, “Service upon the attorney or upon a party **shall be made** by . . . Serving a copy on the person by electronic means in a manner provided by order of the Supreme Court of South Carolina.” Rule 262(c), SCACR (emphasis added). The applicable supreme court order governing electronic service is its Order entered April 24, 2024. That Order states, “Documents **must** be e-mailed as an attachment in .pdf. In the absence of consent, a lawyer serving a document by e-mail may not utilize another file format or a file-sharing service.” *In re: Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules*, S.C. Sup. Ct. Order (as amended April 24, 2024) (emphasis added). To date, no copy of the record has been served in person, by U.S. Mail, or by any of the approved electronic means. Instead, you did the same thing you did before: you e-mailed out links. I am not aware of you obtaining—or even seeking—consent from counsel to serve the record in a manner other than as PDF attachments. Based on your e-mail it appears you knew we would not receive the documents as PDF attachments but instead as hyperlinks. You could have broken the

Gregg E. Meyers, Esquire  
October 4, 2024  
Page 2 of 2

large PDFs into files small enough to e-mail as attachments, but you instead elected to proceed with the hyperlinks. When you did that, you took the risk that your manner of service would not comply with the Rules and the Orders. And it did not.

I further note that in the proof of service you filed with the Court of Appeals on September 20, 2024, you state, “Counsel for the appellants has served the four volume Record on Appeal by sending a copy of each volume to each of the counsel listed below, four separate emails, one email for each of the four volumes of the Record on Appeal, with a corrected Index listing as to each of pages 1188 and 1341.” We have located no record of “four separate emails, one email for each of the four volumes” having been sent, so that certification to the Court appears to be inaccurate, too. In fact, the e-mail you attached to the proof of service belies the “four separate emails” statement in your proof of service.

The Court’s August 23<sup>rd</sup> Order states that the failure to comply “will result in dismissal of this appeal.” It is therefore my intent to move yet again to dismiss the appeal based on these failures. If you did serve the Record pursuant to Rule 262(c) and the Court Orders, or if there were in fact one or more emails transmitting documents as PDF attachments rather than links, then please advise.

Sincerely,  
  
Benjamin C. Bruner

BCB/gh

cc: Richard S. Dukes, Jr., Esquire (via e-mail only)  
Carmelo Barone Sammataro, Esquire (via e-mail only)  
John Cuttino, Esquire (via e-mail only)  
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