

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM DARLINGTON COUNTY  
J. MICHAEL BAXLEY, CIRCUIT COURT JUDGE  
TRIAL COURT CASE NO. 2010-CP-16-0332 and 2007-CP-40-0576  
APPELLATE CASE NO. 2013-001461

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*Ex Parte:* Douglas N. Truslow, Respondent,

*Ex Parte:* Tony R. Megna, Appellant

*In re:*

James Anasti, Plaintiff

Vs.

Lance Goodwin, Willis Goodwin, Gina L. Anasti Lee,  
And Richland County of Clerk of Court Defendants

And

*Ex Parte:* Desa Ballard Respondent,

*Ex Parte:* Tony R. Megna, Appellant

*In re:*

Pee Dee Health Care P.A., Plaintiff.

Vs.

Estate of Hugh S. Thompson, Defendant.

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REPLY TO APPELLANT'S RETURN TO  
MOTION TO STRIKE BY RESPONDENT DESA BALLARD

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In his response, Appellant argues that the Memorandum of May 29, 2012 submitted via email to Judge Baxley was before the trial court and is therefore properly included in the Record on Appeal. However, the attached exhibit, an email from Appellant's prior counsel, confirms that the motion was never filed and was never made a part of the official trial court record. Respondent submits that the requirement of Rule 210(c), SCACR that the Record on Appeal include only "matter which was . . . presented to the lower court. . ." actually means only such matter that became a part of the trial court's official proceedings. Appellant's argument would suggest that anything he brought into the courtroom was "presented to the lower court" so it can be included in the appellate record. Similarly, anything he emailed to the judge but didn't file with the clerk's office is "presented to the lower court."

We respectfully assert that simply emailing a document to the judge, without filing it, and especially when it was not solicited, does not cause a document to be properly before the Court. Appellant does not argue that the memorandum was actually considered by Judge Baxley, and the email from Judge Baxley clerk certainly suggests otherwise.

Therefore, Respondent Desa Ballard respectfully renews her request to strike Item 28 from Appellant's designations.

[signature next page]

Desa Ballard by Henry Watson

Desa Ballard, *Pro Se* (signed in my absence  
by my partner)

226 State Street  
West Columbia, South Carolina 29169  
Telephone 803.796.9299  
Facsimile 803.796.1066  
Email: [desab@desaballard.com](mailto:desab@desaballard.com)

RESPONDENT *PRO SE*

September 30, 2013

**Desa Ballard**

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**From:** Aimee Zmroczek <ajzlawfirm@gmail.com>  
**Sent:** Tuesday, May 29, 2012 5:54 PM  
**To:** Desa Ballard  
**Cc:** <douglastruslow@truslowlaw.com>; Josey, J. Rene; <pjlaw507@bellsouth.net>; Mara Ballard  
**Subject:** Re: Response after viewing court submissions

I absolutely will not file in light. I was simply responding to the fact that I had requested an opportunity to see and respond to items that had been submitted as part of the record that I had never seen or had a chance to address. I certainly wasn't trying to be improper.

Thanks for addressing your concern. So to reiterate, I will not file anything with the clerk.

Sent from my iPhone

On May 29, 2012, at 5:11 PM, "Desa Ballard" <[desab@desaballard.com](mailto:desab@desaballard.com)> wrote:

Aimee:

Since Judge Baxley has not requested additional briefs, we would object to your filing your document with the clerk's office. Please advise.

db

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**From:** Baxley, J. Michael Law Clerk (Mason W. King) [<mailto:JBaxleyLC@sccourts.org>]  
**Sent:** Tuesday, May 29, 2012 5:01 PM  
**To:** Desa Ballard; Aimee J. Zmroczek; Baxley, J. Michael Secretary (Jamie L. Capell); [douglastruslow@truslowlaw.com](mailto:douglastruslow@truslowlaw.com)  
**Cc:** Josey, J. Rene; [pjlaw507@bellsouth.net](mailto:pjlaw507@bellsouth.net); Mara Ballard  
**Subject:** RE: Response after viewing court submissions

We did not request additional briefs from the parties. This matter continues to remain under advisement, and we will be back in touch with the parties soon.

**Mason William King**  
Law Clerk to the Honorable J. Michael Baxley  
Circuit Court of the Fourth Judicial Circuit  
531 E. Carolina Avenue  
Hartsville, South Carolina 29550  
Telephone: 843.383.4114  
Fax: 843.383.4116  
[jbaxleylc@sccourts.org](mailto:jbaxleylc@sccourts.org)

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**From:** Desa Ballard [<mailto:desab@desaballard.com>]  
**Sent:** Tuesday, May 29, 2012 3:08 PM  
**To:** Aimee J. Zmroczek; Baxley, J. Michael Law Clerk (Mason W. King); Baxley, J. Michael Secretary (Jamie L. Capell); [baxleyj@sccourts.org](mailto:baxleyj@sccourts.org); [douglastruslow@truslowlaw.com](mailto:douglastruslow@truslowlaw.com)  
**Cc:** Josey, J. Rene; [pjlaw507@bellsouth.net](mailto:pjlaw507@bellsouth.net); Mara Ballard  
**Subject:** RE: Response after viewing court submissions

Judge Baxley:

I'm confused. I was not aware that you had requested additional briefs. Did you request supplemental briefs from the parties? If so, we would like an opportunity to respond.

db

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**From:** Aimee J. Zmroczek [<mailto:ajzlawfirm@gmail.com>]  
**Sent:** Tuesday, May 29, 2012 2:50 PM  
**To:** [JBaxleyLC@sccourts.org](mailto:JBaxleyLC@sccourts.org); [JBaxleySC@sccourts.org](mailto:JBaxleySC@sccourts.org); [baxlevj@sccourts.org](mailto:baxlevj@sccourts.org); [douglastruslow@truslowlaw.com](mailto:douglastruslow@truslowlaw.com); Desa Ballard  
**Subject:** Response after viewing court submissions

Dear Judge Baxley:

I appreciate you allowing me additional time to provide the Court a comprehensive view of the matters at bar based on evidence as opposed to the rhetoric and emotion of the parties. With the goal of bringing matters to a close with minimal additional conflict, my suggestions to resolve the issues are simple and straightforward. After reviewing the submissions to the court on behalf of the plaintiff, I respectfully request Mr. Truslow's motion for sanctions be denied. The substantive allegations he has made, and the documents he has provided, clearly demonstrate that the matters of which he complains occurred while the Court of Appeals had exclusive jurisdiction of the case. That Court considered and wisely denied his motion by unanimous decision. That ruling was un-appealed to the Supreme Court, is final, and is the law of the case. Moreover, *res judicata* bars the issues Mr. Truslow actually raised and could have raised. Respectfully, we are duty-bound to follow the ruling of the Court of Appeals.

Second, the plain language of the "*Weisenstein emails*" [Court's Exhibit 1] require the dismissal of the Ms. Ballard's motion before this Court. The "*Weisenstein emails*" clearly contradict Ms. Ballard's motion, affidavit and assertions she made at the May 15 hearing.

I have attached and served on all parties via e-mail the following response, which I will also file and mail with the Clerk.

Aimee J. Zmroczek

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM DARLINGTON COUNTY  
J. MICHAEL BAXLEY, CIRCUIT COURT JUDGE  
TRIAL COURT CASE NO. 07-CP-40-0576 AND 40-CP-16-0332  
APPELLATE CASE NO. 2013-001461

---

Ex Parte: Douglas N. Truslow, Respondent,  
Ex Parte: Tony R. Megna, Appellant,  
In re:  
James Anasti, Plaintiff,  
v.  
Lance Wilson, Willis Goodwin, Gina L. Anasti Lee,  
And nd Richland County Clerk of Court, Defendants.

And

Ex Parte: Desa Ballard, Respondent,  
Ex Parte: Tony R. Megna, Appellant,  
In re:  
Pee Dee HealthCare, P. A., Plaintiff,  
v.  
Estate of Hugh S. Thompson, Defendant.

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CERTIFICATE OF SERVICE

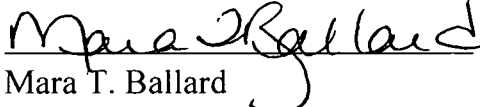
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I, Mara T. Ballard, the undersigned employee of Desa Ballard, PA d/b/a  
Ballard Watson Weissenstein, do certify that I have served a copy of Reply to

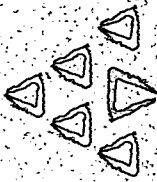
**Appellant's Return to Motion to Strike by the Respondent Desa Ballard on**  
September 30, 2013, by causing a copy of same to be deposited in the US Mail,  
proper postage prepaid addressed as follows:

Mr. Douglas N. Truslow, Esquire  
Post Office Box 1465  
Columbia South Carolina 29202

James M. Griffin, Esquire  
Ariail E. King, Esquire  
Lewis Babcock & Griffin, LLP  
1513 Hampton Street  
Columbia South Carolina 29201

  
Mara T. Ballard

West Columbia, South Carolina  
September 30, 2013



**Ballard  
Watson Weissenstein**  
PERSISTENT. UNWAVERING.

Desa Ballard  
Harvey M. Watson III  
Stephanie Weissenstein  
Attorneys at Law

Post Office Box 6338 | West Columbia, SC 29171  
226 State Street | West Columbia, SC 29169 | ph 803.796.9299 | fx 803.796.1066 | [desaballard.com](http://desaballard.com)

Monday, September 30, 2013

*Via U. S. Mail and Facsimile*  
Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: *Ex Parte Desa Ballard v. Tony R. Megna in re: Pee Dee HealthCare vs. Estate of  
Hugh S. Thompson.*  
Case No: 2013-001461

Ms. Kitchings:

Enclosed for filing is an original and seven (7) copies of Ms. Ballard's Reply to Appellant's Return to Motion to Strike by the Respondent Desa Ballard which I am submitting in the above matter. Please file the original and return a clocked-in copy in the enclosed self-addressed, stamped envelope. I am also enclosing our Certificate of Service.

If you should have any questions, please contact us. With kindest regards, I am,

Sincerely yours,

Mara T. Ballard, CFE, CMA  
Forensic Accountant  
[mara@desaballard.com](mailto:mara@desaballard.com)

c: (Via US Mail and Email)  
Douglas Truslow, Esquire  
James Griffin, Esquire  
Aerial King, Esquire

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