

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Roger M. Young

70274

Case No. 2008-CP-07-04113

South Carolina Electric & Gas,Appellant,

v.

Evva A. Anderson and Michael S. Anderson,Respondents.

**MOTION TO REMAND TO RECREATE THE RECORD DUE TO LOST
TRANSCRIPT**

Appellant South Carolina Electric & Gas hereby moves for an order to remand this appeal to the Beaufort County Court of Common Pleas for the purpose of recreating the record due to a lost transcript of the proceedings giving rise to this appeal.

This appeal concerns a verdict of the jury entered on April 17, 2012, against the Appellant and the Honorable Roger M. Young's Order dated May 15, 2012, and entered May 17, 2012, granting the Respondents' Motion for Statutory Interest and denying the Appellant's Motion for a New Trial Absolute, or alternatively a New Trial *Nisi Remittitur*.

The trial in this case took place on April 17, 2012, and lasted one day. On June 22, 2012, the transcript of the proceedings in this case was ordered from the court reporter, Ms. Deborah E. Everett. On June 25, 2012, the Appellant was informed that Ms. Everett was no longer registered as a court reporter with the Office of Court Administration for the State of South Carolina; therefore, the Appellant requested a transcript of the trial proceedings from the Office of Court Administration on June 25, 2012.

On September 6, 2012, the Appellant notified Court Administration that the transcript had not been timely received and an extension had not been requested by the court reporter. (See Exhibit 1, Letter to Court Administration dated September 6, 2012). Despite an additional two notices to Court Administration, the Appellant has not received the transcript, nor has it received notification of an extension from the court reporter or any party. (See Exhibit 2, Letter to Court Administration dated January 7, 2013; and see Exhibit 3, Letter to Court Administration dated September 5, 2013). As a result of the lack of a trial transcript, Appellant requests the opportunity to reargue its case and recreate the record on appeal.

WHEREFORE, for the reasons stated herein, Appellant hereby requests that this appeal be remanded and the parties be given the opportunity to reargue and recreate the entire record for the purposes of this appeal.

Respectfully submitted,



E. Richardson LaBruce, SC Bar No. 80106
Mikell, Weidner, Wegmann & Harper, LLC
Post Office Box 1727
Beaufort, South Carolina 29901
(843) 524-2110
Attorney(s) for Appellant

October 28, 2013

MIKELL, WEIDNER, WEGMANN & HARPER, LLC

J. Thomas Mikell *
Larry W. Weidner, II (SC & PA)
James J. Wegmann (SC & TX)
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E. Richardson LaBruce

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From the Desk of:
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Mikell Office
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Beaufort, South Carolina 29907
Weidner, Wegmann, Harper Office
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Beaufort, South Carolina 29907

FILED
COPY

September 6, 2012

The Honorable Rosalyn W. Frierson
Director, South Carolina Court Administration
1015 Sumter Street, Suite 200
Columbia, South Carolina 29201

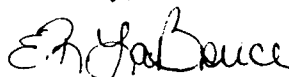
Re: South Carolina Electric & Gas, Appellant, v. Evva A. Anderson and Michael S. Anderson, Respondents, Civil Action No. 2008-CP-07-04113

Dear Ms. Frierson:

On June 22, 2012, the transcript of the proceedings in this case was ordered from the court reporter, Ms. Deborah E. Everett. On June 25, 2012, we were informed that Ms. Everett was no longer registered as a court reporter with the Office of Court Administration for the State of South Carolina; therefore, per advice of Ms. Tammy Brown of the Office of Court Administration, we requested the transcript of the proceedings from the Office of Court Administration on June 25, 2012.

As of the date of this letter, appellant has not received the transcript nor has it received notification of an extension from the court reporter or any party. If you have any questions, please do not hesitate to contact me.

Sincerely,



E. Richardson LaBruce
MIKELL, WEIDNER, WEGMANN & HARPER, LLC
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(843) 524-2110
Attorney(s) for Appellant

Cc: Ms. Tammy Brown
South Carolina Court Administration
115 Sumter Street, Suite 200
Columbia, South Carolina 29201

Matthew Vernon Creech, Esquire
PETERS, MURDAUGH, PARKER, ELZROTH & DETRICK, PA
Post Office Box 2500
Ridgeland, South Carolina 29936

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SC Court of Appeals

(843) 726-6131
Attorney for Respondents

Clerk, Court of Appeals

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January 7, 2013

Via U.S. Mail and Facsimile

V. Claire Allen, Deputy Clerk
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211
Facsimile: (803) 734-1839

Re: South Carolina Electric & Gas, Appellant, v. Evva A. Anderson and Michael S. Anderson, Respondents, Civil Action No. 2008-CP-07-04113
Appellate Case No. 2012-212334

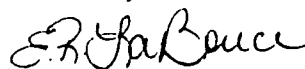
Dear Ms. Allen:

Thank you for your letter of December 27, 2012. On June 22, 2012, the transcript of the proceedings in this case was ordered from the court reporter, Ms. Deborah E. Everett. On June 25, 2012, we were informed that Ms. Everett was no longer registered as a court reporter with the Office of Court Administration for the State of South Carolina; therefore, per advice of Ms. Tammy Brown of the Office of Court Administration, we requested the transcript of the proceedings from the Office of Court Administration on June 25, 2012.

On September 6, 2012, we notified the Office of Court Administration that the transcript had not been timely received, nor had an extension been requested by the court reporter. As of the date of this letter, appellant has not received the transcript nor has it received notification of an extension from the court reporter or any party. Based off of both parties' repeated attempts to obtain the Transcript failing, it seems unlikely that Transcript will ever be delivered. Nonetheless, we will continue in our efforts.

If you have any questions, please do not hesitate to contact me.

Sincerely,



E. Richardson LaBruce
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Post Office Box 1727
Beaufort, South Carolina 29901
(843) 524-2110
Attorney(s) for Appellant

RECEIVED

NOV 04 2013

SC Court of Appeals

January 7, 2013

Cc: Ms. Tammy Brown (via U.S. Mail)
South Carolina Court Administration
115 Sumter Street, Suite 200
Columbia, South Carolina 29201

Matthew Vernon Creech, Esquire (via U.S. Mail)
PETERS, MURDAUGH, PARKER, ELZROTH & DETRICK, PA
Post Office Box 2500
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(843) 726-6131
Attorney for Respondents

MIKELL, WEIDNER, WEGMANN & HARPER, LLC

FILE COPY

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Weidner, Wegmann, Harper Office
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September 5, 2013

Via U.S. Mail and Facsimile (803-734-1839)

V. Claire Allen, Deputy Clerk
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: South Carolina Electric & Gas, Appellant, v. Evva A. Anderson and Michael S. Anderson, Respondents, Civil Action No. 2008-CP-07-04113
Appellate Case No. 2012-212334

Dear Ms. Allen:

Thank you for your letter of August 28, 2013. On June 22, 2012, the transcript of the proceedings in this case was ordered from the court reporter, Ms. Deborah E. Everett. On June 25, 2012, we were informed that Ms. Everett was no longer registered as a court reporter with the Office of Court Administration for the State of South Carolina; therefore, per advice of Ms. Tammy Brown of the Office of Court Administration, we requested the transcript of the proceedings from the Office of Court Administration on June 25, 2012.

On September 6, 2012, we notified the Office of Court Administration that the transcript had not been timely received, nor had an extension been requested by the court reporter. We again notified the Office of Court Administration in December of 2012 that the transcript has not been received. As of the date of this letter, appellant has not received the transcript nor has it received notification of an extension from the court reporter or any party. Based off of both parties' repeated attempts to obtain the Transcript failing, it seems unlikely that Transcript will ever be delivered. Nonetheless, we will continue in our efforts. In the likely event that the Transcript has been lost, we will file the necessary petitions and/or motions.

If you have any questions, please do not hesitate to contact me.

Sincerely,



E. Richardson LaBruce
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Post Office Box 1727
Beaufort, South Carolina 29901
(843) 524-2110
Attorney(s) for Appellant

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NOV 04 2013

Cc: Ms. Tammy Brown (via U.S. Mail)
South Carolina Court Administration
115 Sumter Street, Suite 200
Columbia, South Carolina 29201

Matthew Vernon Creech, Esquire (via U.S. Mail)
PETERS, MURDAUGH, PARKER, ELZROTH & DETRICK, PA
Post Office Box 2500
Ridgeland, South Carolina 29936
(843) 726-6131
Attorney for Respondents

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

The Honorable Roger M. Young

Case No. 2008-CP-07-04113

South Carolina Electric & Gas,Appellant,

v.

Evva A. Anderson and Michael S. Anderson,.....Respondents.

PROOF OF SERVICE

I certify that I have served the **Motion to Remand to Recreate the Record Due to Lost Transcript** on Evva A. Anderson and Michael S. Anderson by depositing a copy of it in the United States Mail, postage prepaid, on **October 26th 2013**, addressed to their attorney of record, Matthew Vernon Creech, Post Office Box 2500, Ridgeland, South Carolina 29936.



E. Richardson LaBruce, SC Bar No. 80106
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(843) 524-2110
Attorney(s) for Appellant

October ~~26~~²⁷, 2013
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NOV 04 2013

SC Court of Appeals

MIKELL, WEIDNER, WEGMANN & HARPER, LLC

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Frampton L. Harper, II
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October 28, 2013

Via U.S. Mail Only

The Honorable Jenny Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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OCT 4 0 2013
SC Court of Appeals


Re: South Carolina Electric & Gas, Appellant, v. Evva A. Anderson and Michael S. Anderson, Respondents, Civil Action No. 2008-CP-07-04113
Appellate Court Case No. 2012-212334
Our File No. 2940.0024

Dear Ms. Kitchings:

Please find enclosed herein the original and seven (7) copies of the Appellant's *Motion to Remand to Recreate the Record Due to a Lost Transcript* regarding the above-referenced matter. Please file and return one (1) file stamped copy to my office in the postage paid envelope provided herein. Also enclosed are the following:

- (1) Proof of Service of the *Motion to Remand* on the Respondents.
- (2) A motion fee of \$25.00.

Sincerely,



E. Richardson LaBruce
MIKELL, WEIDNER, WEGMANN & HARPER, LLC
Attorney(s) for Appellant

ERL

Enclosures: Listed

Cc: Matthew Vernon Creech, Esquire (U.S. Mail)
The Honorable Jerri Ann Roseneau, Beaufort County Clerk of Court (U.S. Mail)
Ms. Tammy Brown, Court Administration (U.S. Mail)