

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Hon. S. Phillip Lenski, Administrative Law Judge

Appellate No. 2013-002614

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RECEIVED

MAY 30 2014

COURT OF APPEALS

South Carolina Department of Motor
Vehicles,.....Respondent,
v.
Christopher Platt,.....Appellant.

MOTION TO REINSTATE THE APPEAL

Christopher Platt, by and through his Counsel, moves this Court to reinstate the appeal from the order of remittitur filed May 22, 2014. Counsel asks that the Court grant this motion based on the following:

The Appellant complied in good faith with the Court's letter dated April 22, 2014, which requested that two new certificate of service be sent to the Court. The Appellant's initial brief, filed on April 17, 2014, did contain one certificate of service and the designation of matter. Upon receiving the April 22nd letter, the Appellant drafted a new and separate certificate of service for the designation of matter and placed it in the mail on April 29, 2014.

It appears that the Clerk never received the Appellant's certificate of service and cover letter, which was mailed by depositing it in the United States Mail, postage prepaid to Post Office Box 11629, Columbia South Carolina 29211. An additional letter referencing this document was also mailed to Opposing Counsel at the Department of Motor Vehicles on the same date. Appellant has confirmed that Opposing Counsel received this cover letter. Furthermore, the Appellant's Co-Counsel, Chase Austin Elliott has attached a sworn affidavit (Exhibit A) that he personally placed both letters in the mail on April 29th, 2014 (Exhibit B).

Additionally, upon examination of the April 22nd notice from court, the Appellant now notices that the certificate of service of the Appellant's Initial Brief referenced a "notice of appeal" rather than the Appellant's "initial brief", as the underlying document being served on Opposing Counsel. This was simply a typographical error and it should be noted that the initial brief and designation of matter of served on Opposing Counsel via Federal Express on April 17th.

Furthermore, the Respondent filed a motion for an extension of time to respond to the brief on May 15th before the order of remittitur was issued. Appellant has confirmed that Opposing Counsel did receive the initial brief and designation of matter filed on April 17th, as further evidenced by their request to have an extension to respond to that brief.

Opposing Counsel was not prejudiced by the Appellants lack of a service page and the Appellant submits that failure to re-submit the service page was excusable neglect. The Appellant now resends the enclosed certificate of service pages for the initial brief and the designation of matter, to fully comply with the South Carolina Appellate Court Rules

The Appellant moves that this Court reinstate the Appeal for the reasons above and the good faith effort by the Appellant to comply with the Court's letter dated April 22, 2014 and the South Carolina Appellant Court Rules.

May 28, 2014

Counsel for Respondent:

Linda Annette Grice, Esq.
Post Office Box 1498
Blythewood, South Carolina 29016



Chase Austin Elliott
116 Church Street, 3rd Floor
Charleston, South Carolina 29401
843-853-3310

Enclosure: Certificate of Service – Appellant's Initial Brief
Certificate of Service – Designation of Matter
Exhibit A – Sworn Affidavit of Chase Austin Elliott
Exhibit B – Copy of Letters and Certificate Sent

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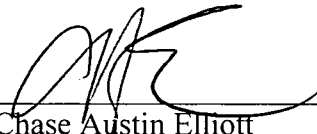
Appellate No. 2013-002614

South Carolina Department of Motor
Vehicles,.....Respondent,
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PROOF OF SERVICE

I certify that I have copied the MOTION TO REINSTATE THE APPEAL on the South Carolina Department of Motor Vehicles, by depositing a copy of it in the United States Mail, postage prepaid, May 28, 2014 addressed to Linda Grice, Esquire, Assistant General Counsel, Post Office Box 1298, Blythewood, South Carolina 29016. I have also emailed a copy of this email to Mrs. Grice at hearingsprocessingunit@scdmv.net.

May 28, 2014



Chase Austin Elliott
Kulp Law Firm
116 Church Street, 3rd Floor
Charleston, South Carolina 29401
(843) 853-3310
Attorney for Appellant

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
)
)
_____)

AFFIDAVIT

PERSONALLY appeared before me, Chase Austin Elliott, as an officer of the court does affirm under penalty of perjury that:

1. That he is an Attorney in good standing and a officer of the Courts of South Carolina;
2. That on April 29, 2014, he personally placed in the mail, an envelope containing a new certificate of service for the designation of record to both the Clerk of Court, South Carolina Court of Appeals and Opposing Counsel;
3. That the original designation of record and initial Appellant brief was posted by Federal Express to the South Carolina Court of Appeals and opposing counsel on April 17, 2014. There was a certificate of service for the Appellant's initial brief but no certificate of service for the designation of record in the packet sent on April 17, 2014.



Chase Austin Elliott

FURTHER affiant sayeth not, Chase Austin Elliott

Sworn to and subscribed before me
This 28 day of may 2014 at
Charleston, South Carolina.



Notary Public for South Carolina
My commission expires 1/17/17.

Danielle B. Lauro
Notary Public
South Carolina
My Comm. Expires January 17, 2017



116 CHURCH STREET, CHARLESTON, SOUTH CAROLINA 29401

TIMOTHY CLAY KULP, ESQ.
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National Board of Trial Advocacy

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MAILING ADDRESS:
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CHARLESTON, S.C. 29402

TELEPHONE (843) 853-3310
FACSIMILE (843) 853-3390

April 17, 2014

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

RE: Christopher Platt vs. South Carolina Department of Motor Vehicles,
Appellate Case No. 2013-002614

Dear Ms. Kitchings:

Enclosed, please find the Appellant's proof of service for the designation of matter. A copy of the proof of service was also mailed to opposing counsel.

Very truly yours,

Timothy Clay Kulp

Enclosure: Proof of Service

cc: Linda Grice, Esq.



116 CHURCH STREET, CHARLESTON, SOUTH CAROLINA 29401

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National Board of Trial Advocacy

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MAILING ADDRESS:
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April 17, 2014

Linda Annette Grice, Esq.
Assistant General Counsel
South Carolina Department of Motor Vehicles
12312 Wilson Boulevard
Blythewood, South Carolina 29016-0020

RE: Christopher Platt vs. South Carolina Department of Motor Vehicles, Docket Number: 2013-002614

Dear Ms. Grice:

Enclosed, please find the Appellant's proof of service for the designation of matter.

Very truly yours,

Timothy Clay Kulp

Enclosure: Copy of Proof of Service

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Hon. S. Phillip Lenski, Administrative Law Judge

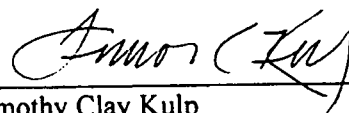
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South Carolina Department of Motor
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v.
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PROOF OF SERVICE

I certify that I have served the designation of matter to be included on the record on appeal on opposing counsel Linda Grice, Esquire, Assistant General Counsel, South Carolina Department of Motor Vehicles, by Federal Express, postage prepaid, on April 17, 2014 addressed to, 12312 Wilson Boulevard, Blythewood South Carolina 29016-0020. I also certify that I sent a true and correct copy by email to hearingprocessunit@scdmv.net.

April 29, 2014



Timothy Clay Kulp
C. Austin Elliott
Kulp Law Firm
116 Church Street, 3rd Floor
Charleston, South Carolina 29401
(843) 853-3310
Attorneys for Appellan

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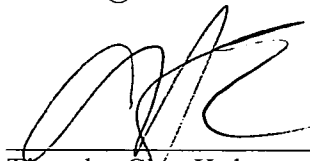
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May 28, 2014



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C. Austin Elliott
Kulp Law Firm
116 Church Street, 3rd Floor
Charleston, South Carolina 29401
(843) 853-3310
Attorneys for Appellant

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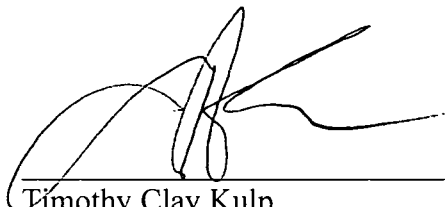
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Attorneys for Appellan

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May 28, 2014 **SC Court of Appeals**

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Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Christopher Platt vs. South Carolina Department of Motor Vehicles,
Appellate Case No. 2013-002614

Dear Ms. Kitchings:

Enclosed for filing is the Appellant's Motion to Reinstate the Appeal. Also enclosed is a check for \$25.00 for the filing fee.

Very truly yours,

Chase Austin Elliott

Other Counsel of Record:
Linda Annette Grice, Esq.
Assistant General Counsel
South Carolina Department of Motor Vehicles
12312 Wilson Boulevard
Post Office Box 1498
Blythewood, South Carolina 29016-0020
(803) 896-9900
Counsel for the Respondent