

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Jr., Circuit Court Judge

Case No. 2011-CP-42-2538
Appellate Case No. 2014-000902

72598

RECEIVED

JUN 23 2014

SC Court of Appeals

Gary G. Harris, Appellant,

v.

Tietex International, Ltd., Respondent.

RESPONDENT'S MOTION TO DISMISS

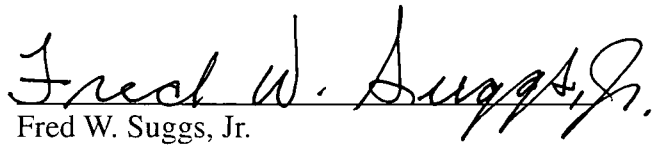
Respondent Tietex International, Ltd. ("Tietex") submits this Motion to Dismiss Appellant Gary G. Harris' ("Harris") appeal based on his failure to comply with South Carolina Appellate Court Rules.

Tietex relies upon the filings before the Court, the Memorandum in Support of this Motion, and the Affidavit of Fred W. Suggs, Jr. (attached as Exhibit 1 to the Memorandum in Support of this Motion).

WHEREFORE, Tietex requests that this Court dismiss Harris' appeal, with prejudice, based on his failure to comply with the requirements of the South Carolina Appellate Court Rules.

*****DATE AND SIGNATURE ON FOLLOWING PAGE*****

Respectfully submitted,



Fred W. Suggs, Jr.

Lucas J. Asper

OGLETREE, DEAKINS, NASH,

SMOAK & STEWART, P.C.

300 North Main Street, Suite 500

Greenville, South Carolina 29601


(864) 271-1300 (telephone)

(864) 235-8806 (facsimile)

fred.suggs@ogletreedeakins.com

lucas.asper@ogletreedeakins.com

ATTORNEYS FOR RESPONDENT


June 20, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Jr., Circuit Court Judge

Case No. 2011-CP-42-2538
Appellate Case No. 2014-000902

Gary G. Harris, Appellant,

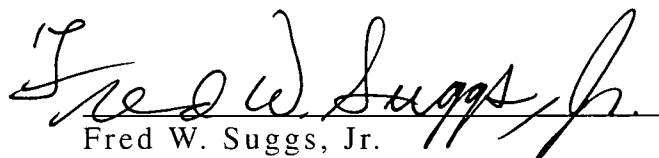
v.

Tietex International, Ltd., Respondent.

PROOF OF SERVICE

I certify that I have served Respondent's Motion to Dismiss on Appellant Gary G. Harris by sending to his attorneys of record a copy of the same via first class mail, properly addressed, postage prepaid at the following addresses: D. Alan Lazenby, Ginger D. Goforth, Lazenby Law Firm, Post Office Box 6099, Spartanburg, South Carolina 29304.

June 20th, 2014


Fred W. Suggs, Jr.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Jr., Circuit Court Judge

Case No. 2011-CP-42-2538
Appellate Case No. 2014-000902

Gary G. Harris, Appellant,

v.

Tietex International, Ltd., Respondent.

**MEMORANDUM IN SUPPORT OF RESPONDENT'S
MOTION TO DISMISS AND
RETURN TO APPELLANT'S MOTION TO EXTEND TIME**

Respondent Tietex International, Ltd. ("Tietex") submits this Memorandum in Support of its Motion to Dismiss Appellant Gary G. Harris' ("Harris") appeal based on his repeated failure to comply with South Carolina Appellate Court Rules, and in Return to Harris' Motion to Extend Time to File Initial Brief & Designation of Matter.¹

Harris received the transcript in this matter on May 9, 2014. Under Rules 208 and 209, SCACR, Harris was required to file and serve his Initial Brief and Designation of Matter to be Included in the Record on Appeal no later than June 9, 2014—30 days after he received the transcript. Harris failed to do so. Instead, Harris submitted a Motion to

¹ Tietex joins its Memorandum in Support of its Motion to Dismiss with its Return to Harris' Motion to Extend Time due to the complete overlap of issues involved in the two Motions.

Extend Time to File Initial Brief and Designation of Matter on June 13, 2014—four days after his deadline had already passed. Because Harris’ Motion to Extend Time does not automatically stay existing deadlines under Rule 240(b), SCACR, his failure to comply with the South Carolina Appellate Court Rules grows more egregious each day.

Additionally, Harris’ explanation for the extension he requested—“because he recently obtained appellate counsel to research and prepare these pleadings”—is highly disingenuous given the fact that his appellate counsel is the same counsel who represented him in the lower court in this same matter and who briefed and argued the very summary judgment issue Harris now appeals. Moreover, Harris’ counsel made an appearance in this appeal on May 20, 2014—24 days before filing the Motion to Extend Time.

Harris has blatantly failed to comply with the South Carolina Appellate Court Rules, and his tardy and unsubstantiated Motion to Extend Time does nothing to remedy that defect. Tietex requests that the Court dismiss Harris’ appeal, with prejudice, and deny Harris’ Motion to Extend Time.

A. RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

1. Summary of Underlying Action and Related Prior Action.

Harris originally filed a lawsuit against Tietex in the Spartanburg County Court of Common Pleas on August 15, 2008—C.A. No. 2008-CP-42-4316 (“First Action”). Harris’ First Action included a claim for violation of the Age Discrimination in Employment Act (“ADEA”), and various state law claims.² Tietex removed the First

² Harris’ state law claims in the First Action included (1) breach of contract, (2) breach of contract accompanied by a fraudulent act, and (3) defamation. All of Harris’s claims in

Action to the United States District Court for the District of South Carolina based on Harris' ADEA claim. After engaging in discovery in the First Action, Tietex moved for summary judgment on all of Harris' claims. On October 28, 2010, the Federal Court granted Tietex's motion on Harris' ADEA claims but chose not to address Harris' remaining state law claims, dismissing them without prejudice. *Harris v. Tietex Int'l, Ltd.*, No. 7:08-cv-3020-JMC, Opinion and Order (D.S.C. Oct. 28, 2010); *see also id.*, Order and Report of Magistrate Judge (D.S.C. July 29, 2010). The Fourth Circuit Court of Appeals affirmed the District Court's decision, *Harris v. Tietex Int'l, Ltd.*, No. 10-2319, Unpublished Decision (4th Cir. May 31, 2011), and denied Harris' request for rehearing of his appeal, *id.*, Order (4th Cir. July 26, 2011).

Harris filed a *pro se* Complaint in the action now on appeal ("Second Action") on October 21, 2011. Harris' *pro se* Complaint asserted claims against Tietex for defamation and unspecified discrimination, relying on the same general facts alleged in the First Action.

On March 8, 2012, Harris' newly-employed counsel—Alan Lazenby, the same attorney who represented Harris throughout the remainder of the Second Action and who is now representing Harris in this appeal—entered his appearance in the Section Action. On August 10, 2012, the Court granted Harris' motion to amend his Complaint in the Second Action. On September 5, 2012, Harris filed his Amended Complaint in the Second Action alleging identical claims to those alleged in the First Action (except his ADEA claim) and adding a new claim for intentional infliction of emotional distress

the First Action arose from allegations regarding his employment with Tietex and his separation therefrom.

(“outrage”) based on the same facts.³ As in the First Action, all of Harris’ claims in the Second Action arose from allegations regarding his employment with Tietex and his separation therefrom.

On January 27, 2014, Tietex filed its Renewed Motion for Summary Judgment and supporting memorandum in the Second Action. On February 6, 2014, the Court heard Tietex’s Renewed Motion for Summary Judgment. On the record during the February 6, 2014 hearing, Harris voluntarily withdrew his claims for (1) breach of contract, (2) breach of contract accompanied by fraudulent act, and (3) outrage, leaving only his defamation claims before the Court.

On February 18, 2014, the Court granted Tietex’s Renewed Motion for Summary Judgment and requested that Tietex’s counsel prepare and submit a proposed formal order granting the motion. On March 20, 2014, the Court entered its formal Order granting summary judgment to Tietex and dismissing Harris’ claims in their entirety (“Summary Judgment Order”).⁴

The Court’s Summary Judgment Order held that summary judgment was proper in three regards:

- (1) Harris failed to identify a genuine dispute of material fact regarding his defamation claims. The only actual statements on which Harris relied were internal Tietex memoranda discussing Harris’ work performance, all of which were substantially true and covered by a qualified privilege.

³ Harris’ *pro se* Complaint also added two new defamation claims that were not included in the First Action, and Harris identified a third new defamation claim during his deposition in the Second Action.

⁴ The Summary Judgment Order was attached to Harris’ Notice of Appeal.

Harris presented no evidence that Tietex acted with actual malice or otherwise exceeded the privilege. The remaining alleged statements on which Harris attempted to rely were either not defamatory or relied exclusively on inadmissible hearsay. (Summary Judgment Order at 16-21.)

- (2) All of Harris' claims were barred by the doctrine of collateral estoppel. All of Harris' claims in the Second Action relied on factual contentions and arguments that directly contradicted the findings and conclusions of the Federal Court in the First Action. (Summary Judgment Order at 21-23.)
- (3) Three of Harris' defamation claims were barred by the statute of limitations and the doctrine of *res judicata*. Harris could have raised these claims in the First Action but failed to do so, and he first raised them in the Second Action long after the two-year statute of limitations had expired. (Summary Judgment Order at 23-25.)

Tietex filed a Motion and Memorandum for Sanctions against Harris under the South Carolina Frivolous Proceedings Sanctions Act on April 4, 2014, based on Harris' frivolous claims in the Second Action and his improper attempt to relitigate numerous issues the Federal Court had conclusively decided in the First Action. Tietex's Motion is currently pending and will be heard on July 17, 2014.

2. **Harris' Failure to Comply with South Carolina Appellate Court Rules.**

On April 15, 2014, Harris submitted his Notice of Appeal to this Court in which he appealed the Summary Judgment Order. (Suggs Aff. at ¶ 3.⁵) On April 17, 2014, Harris sent a letter to Court Reporter Linda D. Moffitt requesting a copy of the transcript from the February 6, 2014 hearing on Tietex's Renewed Motion for Summary Judgment. (*Id.* at ¶ 4.) Harris did not send Tietex's counsel a copy of his transcript request until April 23, 2014. (*Id.* at ¶ 5 & Attach. A.)

On May 20, 2014, Alan Lazenby and Ginger Goforth submitted a notice of appearance on behalf of Harris in this appeal. (*Id.* at ¶ 6 & Attach. B.) Lazenby and Goforth are the same attorneys who represented Harris in the lower court action that is now on appeal. (*Id.* at ¶ 6.) Lazenby personally briefed and argued in opposition to the very summary judgment motion that Harris is now appealing. (*Id.*)

In late-May 2014, knowing that the transcript was already prepared—as Tietex had requested a copy in preparing its Motion and Memorandum for Sanctions in the lower court—Tietex's counsel asked the Court Reporter when she had delivered the transcript to Harris. (*Id.* at ¶ 7.) The Court Reporter informed Tietex's counsel that Harris had received the transcript on May 9, 2014. (*Id.* at ¶ 8.) Harris never notified the Court or Tietex that he had received the transcript, thereby violating Rule 207(a)(1), SCACR (“Appellant shall contemporaneously furnish all counsel of record, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter.”). (*Id.* at ¶ 9.)

⁵ The Affidavit of Fred W. Suggs, Jr., is attached to this Memorandum as Exhibit 1.

When Tietex had not yet received service of Harris' Initial Brief on June 12, 2014—three days after it was due to be filed and served—Tietex's counsel called the Clerk of Court's office to confirm that Harris had not yet filed his Initial Brief. (*Id.* at ¶ 10.) The Clerk of Court's office confirmed that no Initial Brief was on file and stated that Harris had never provided notice that he had received the transcript. (*Id.* at ¶ 11.) After speaking with the Clerk of Court's office, Tietex's counsel called the Court Reporter to request written confirmation of the date on which Harris had received the transcript. (*Id.* at ¶ 12.)

On June 15, 2014, the Court Reporter faxed Tietex's counsel a copy of (1) the USPS Tracking log showing that the transcript was delivered to Harris' home address on May 9, 2014; (2) a May 1, 2014 letter from Harris to the Court Reporter enclosing payment for the transcript; and (3) the envelope enclosing Harris' letter and payment to the Court Reporter, which was postmarked May 6, 2014. (*Id.* at ¶ 13 & Attach. C.) Also on June 15, 2014, the Court Reporter sent Tietex's counsel an e-mail confirming as follows: "I have received a call from your office in reference to the above matter concerning the delivery of the transcript to Mr. Harris. I have faxed to your office a copy of the letter from Mr. Harris, the envelope and tracking information from the office post showing the delivery date and time." (*Id.* at ¶ 14 & Attach. D.) Again, Harris never furnished Tietex or the Court copies of any of this correspondence with the Court Reporter in violation of Rule 207(a)(1), SCACR. (*Id.* at ¶ 15.)

On June 13, 2014—four days after Harris' deadline to file and serve his Initial Brief and Designation of Matter to be Included in the Record on Appeal—Harris' counsel submitted a Motion to Extend Time to File Initial Brief and Designation of Matter.

Harris' sole explanation regarding his need for the extension is as follows: "Appellant requests this extension because he recently obtained appellate counsel to research and prepare these pleadings." Notwithstanding that Harris' Motion to Extend Time does not stay any existing deadlines, Rule 240(b), SCACR, Harris has not filed or served his Initial Brief or Designation of Matter to be Included in the Record on Appeal as of the filing of this Motion.

Tietex now moves to dismiss Harris' appeal, with prejudice, based on his repeated failures to comply with the South Carolina Appellate Court Rules. Tietex further requests that the Court deny Harris' Motion to Extend Time based on (1) the fact that Harris did not file the Motion until four days after his deadline had already passed, and (2) Harris' disingenuous explanation regarding the alleged need for an extension.

B. LEGAL ARGUMENTS AND AUTHORITIES

Harris has repeatedly violated the clear requirements of the South Carolina Appellate Court Rules by (1) failing to furnish copies of his correspondence with the Court Reporter to Tietex or the Court, and (2) failing to file and serve his Initial Brief and Designation of Matter to be Included in the Record on Appeal with 30 days of his receipt of the transcript. These violations warrant dismissal of Harris' appeal, particularly considering he waited until four days after his deadline to request an extension and provided a highly suspect explanation for his tardiness in doing so.

1. Harris Violated Rule 207(a)(1), SCACR.

Rule 207(a)(1), SCACR, contains the clear mandate that "Appellant shall contemporaneously furnish all counsel of record, the Office of Court Administration, and

the clerk of the appellate court with copies of all correspondence with the court reporter.” Harris has failed to comply with this mandate at every turn.

First, Harris did not provide Tietex a copy of his initial correspondence requesting the transcript from the Court Reporter until six days after he sent the correspondence. (Suggs Aff. at ¶¶ 4-5 & Attach. A.) Furnishing a copy to Tietex’s counsel six days after the fact is far from “contemporaneously furnishing” as is required by Rule 207(a)(1), SCACR.

Second, Harris did not provide Tietex or the Court a copy of any of his following correspondence with the Court Reporter:

- (a) the correspondence from the Court Reporter to Harris invoicing Harris for the transcript, which Harris references in his May 1, 2014 correspondence to the Court Reporter (Suggs Aff. at ¶ 13 & Attach. C);
- (b) the May 1, 2014 correspondence from Harris to the Court Reporter enclosing payment for the transcript (*id.*); or
- (c) the May 6, 2014 correspondence from the Court Reporter to Harris enclosing the Transcript, which Harris received on May 9, 2014 (*id.*).

Harris’ failure to comply with Rule 207(a)(1), SCACR, mandates dismissal of his appeal under Rule 260(a), SCACR, which provides as follows: “Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.” Harris’ appeal should be dismissed accordingly.

2. **Harris Violated Rules 208 and 209, SCACR.**

Rule 208(a)(1), SCACR, sets forth the following deadline within which Harris was required to file and serve his Initial Brief: “Within thirty (30) days after receiving the transcript . . . , appellant shall serve one copy of his brief on all parties to the appeal, and file with the clerk of the appellate court one copy of the brief with proof of service.” Similarly, Rule 209, SCACR, dictates that Harris comply with the following time requirements in filing and serving his Designation of Matter to be Included in the Record on Appeal: “At the same time a party serves his initial brief(s) under Rule 208, to include a reply brief, he shall also serve on all parties to the appeal a Designation of Matter to be Included in the Record on Appeal” Harris has violated both of these Rules, mandating dismissal of his appeal.

The USPS Tracking log Tietex’s counsel acquired from the Court Reporter leaves no doubt that Harris received the transcript in this matter on May 9, 2014. (Suggs Aff. at ¶ 13 & Attach. C.) Harris was thus required to serve his Initial Brief and Designation of Matter to be Included in the Record on Appeal by no later than June 9, 2014. Harris did not do so.

Rather than complying with Rules 208 and 209, SCACR, Harris submitted a Motion to Extend Time on June 13, 2014—four days after his deadline had passed. Beyond the fact that Harris’ explanation for the extension he allegedly needs is disingenuous and unsubstantiated (*see infra*, Section B.3.), he cannot remedy his failure to comply with Rules 208 and 209, SCACR, by filing a Motion to Extend Time after his deadline has come and gone. This violation is far more egregious than Harris’ violation

of Rule 207(a)(1), SCACR, and certainly mandates dismissal of Harris' appeal under Rule 260(a), SCACR. Therefore, Harris' appeal should be dismissed with prejudice.

3. Harris' Motion to Extend Time is Disingenuous and Unsubstantiated.

Placing aside Harris' failure to file his Motion to Extend Time until after his deadline had passed, that Motion should also be denied given the highly questionable explanation Harris has provided regarding his alleged need for the extension. In his Motion to Extend Time, Harris explains his alleged need for the extension as follows: "Appellant requests this extension because he recently obtained appellate counsel to research and prepare these pleadings." In providing this explanation, Harris misstates and disregards the actual facts. His Motion should be denied and his appeal dismissed.

First, Harris did not "recently obtain[] appellate counsel" at the time he filed his Motion to Extend Time. His counsel submitted a notice of appearance in this appeal on May 20, 2014—twenty-four days before filing the Motion to Extend Time. (Suggs Aff. at ¶ 6 & Attach. B.) Harris received the transcript from the Court Reporter on May 9, 2014—eleven days before his counsel made an appearance. (*Id.* at ¶ 13 & Attach. C.) Thus, Harris' counsel had twenty days from the date of appearance until the date on which the Initial Brief and Designation of Matter to be Included in the Record on Appeal were due. If Harris' counsel truly needed more time "to research and prepare these pleadings" as alleged in the Motion to Extend Time, Harris could have filed the Motion at any time during those twenty days. Instead, he waited until after his deadline had passed. Such dilatory maneuvering should not be rewarded by granting Harris an after-the-fact extension.

Second, Harris' allegation that his "appellate counsel" needs additional time "to research and prepare these pleadings" completely disregards the fact that his appellate counsel represented him in the lower court in this matter. (*Id.* at ¶ 6.) Harris' counsel is intimately familiar with the facts and legal issues involved in this appeal, as Harris' counsel personally briefed and argued the summary judgment issue now on appeal. (*Id.*)

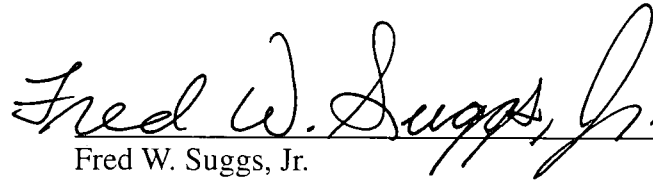
With the above facts in mind—which Harris conveniently disregards in his Motion to Extend Time—Harris' explanation regarding his alleged need for an extension is obviously disingenuous and unsubstantiated. Accordingly, Harris' Motion to Extend Time should be denied, and his appeal should be dismissed.

C. CONCLUSION

Harris has repeatedly violated the South Carolina Appellate Court Rules in this matter, specifically including Rules 207(a)(1), 208, and 209. Harris' failure to comply with the Rules mandates dismissal of his appeal. Harris' Motion to Extend Time was filed after the relevant deadline had passed and is both unsubstantiated and disingenuous. Accordingly, for all of the foregoing reasons, Tietex requests that the Court (1) grant its Motion to Dismiss and dismiss Harris' appeal, with prejudice, (2) deny Harris' Motion to Extend Time, and (3) award such further relief the Court deems just and proper.

*****DATE AND SIGNATURE ON FOLLOWING PAGE*****

Respectfully submitted,



Fred W. Suggs, Jr.

Lucas J. Asper

OGLETREE, DEAKINS, NASH,

SMOAK & STEWART, P.C.

300 North Main Street, Suite 500

Greenville, South Carolina 29601

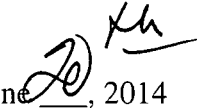
(864) 271-1300 (telephone)

(864) 235-8806 (facsimile)

fred.suggs@ogletreedeakins.com

lucas.asper@ogletreedeakins.com

ATTORNEYS FOR RESPONDENT


June 20, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Jr., Circuit Court Judge

Case No. 2011-CP-42-2538
Appellate Case No. 2014-000902

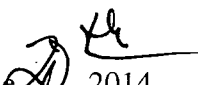
Gary G. Harris, Appellant,

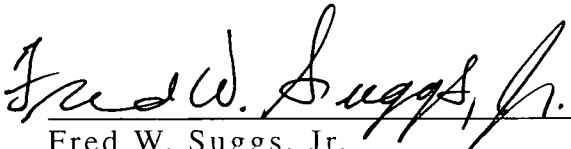
v.

Tietex International, Ltd., Respondent.

PROOF OF SERVICE

I certify that I have served Memorandum in Support of Respondent's Motion to Dismiss and Return to Appellant's Motion to Extend Time on Appellant Gary G. Harris by sending to his attorneys of record a copy of the same via first class mail, properly addressed, postage prepaid at the following addresses: D. Alan Lazenby, Ginger D. Goforth, Lazenby Law Firm, Post Office Box 6099, Spartanburg, South Carolina 29304.

June  2014


Fred W. Suggs, Jr.

RECEIVED

JUN 23 2014

SC Court of Appeals

EXHIBIT 1

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Jr., Circuit Court Judge

RECEIVED

JUN 23 2014

Case No. 2011-CP-42-2538
Appellate Case No. 2014-000902

SC Court of Appeals

Gary G. Harris, Appellant,

v.

Tietex International, Ltd., Respondent.

AFFIDAVIT OF FRED W. SUGGS, JR.

I, **FRED W. SUGGS, JR.**, testify as follows under penalty of perjury:

1. The facts stated in this Affidavit are true of my own personal knowledge and belief and, if called to testify to them, I would competently do so. I suffer from no disability that would preclude me from giving the testimony herein.

2. I am an attorney for the Respondent in the above-captioned action and represented Respondent in the action before the lower court that is now on appeal.

3. On April 15, 2014, Harris submitted his Notice of Appeal to this Court in which he appealed the Summary Judgment Order.

4. On April 17, 2014, Harris sent a letter to Court Reporter Linda D. Moffitt requesting a copy of the transcript from the February 6, 2014 hearing on Tietex's Renewed Motion for Summary Judgment.

5. Harris did not send our office a copy of his transcript request until April 23, 2014. A copy of the correspondence from Harris is attached to this Affidavit as Attachment A.

6. On May 20, 2014, Alan Lazenby and Ginger Goforth submitted a notice of appearance on behalf of Harris in this appeal. Lazenby and Goforth are the same attorneys who represented Harris in the lower court action that is now on appeal. Lazenby personally briefed and argued in opposition to the very summary judgment motion that Harris is now appealing. A copy of the notice of appearance our office received from Lazenby and Goforth is attached to this Affidavit as Attachment B.

7. In late-May 2014, knowing that the transcript was already prepared—as our office had requested a copy in preparing Tietex’s Motion and Memorandum for Sanctions against Harris in the lower court—we asked the Court Reporter when she had delivered the transcript to Harris.

8. The Court Reporter informed our office that Harris had received the transcript on May 9, 2014.

9. Harris never notified our office that he had received the transcript, thereby violating Rule 207(a)(1), SCACR.

10. When our office had not yet received service of Harris’ Initial Brief on June 12, 2014—three days after it was due to be filed and served—we called the Clerk of Court’s office to confirm that Harris had not yet filed his Initial Brief.

11. The Clerk of Court’s office confirmed that no Initial Brief was on file and stated that Harris had never provided notice that he had received the transcript.

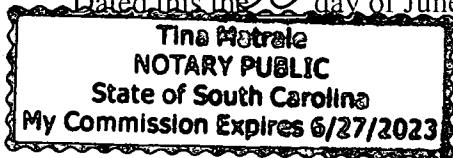
12. After speaking with the Clerk of Court's office, we called the Court Reporter to request written confirmation of the date on which Harris had received the transcript.

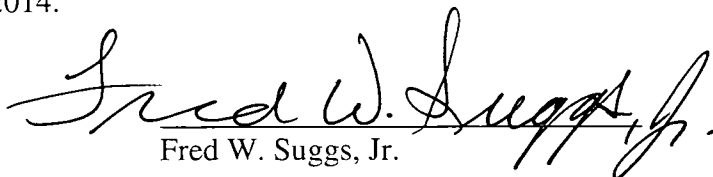
13. On June 15, 2014, the Court Reporter faxed our office a copy of (a) the USPS Tracking log showing that the transcript was delivered to Harris' home address on May 9, 2014; (b) a May 1, 2014 letter from Harris to the Court Reporter enclosing payment for the transcript; and (c) the envelope enclosing Harris' letter and payment to the Court Reporter, which was postmarked May 6, 2014. A copy of the fax received from the Court Reporter is attached to this Affidavit as Attachment C.

14. Also on June 15, 2014, the Court Reporter sent me an e-mail confirming as follows: "I have received a call from your office in reference to the above matter concerning the delivery of the transcript to Mr. Harris. I have faxed to your office a copy of the letter from Mr. Harris, the envelope and tracking information from the office post showing the delivery date and time." A copy of the e-mail received from the Court Reporter is attached to this Affidavit as Attachment D.

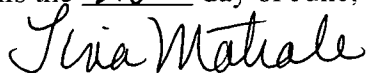
15. Again, Harris never furnished our office copies of any of this correspondence with the Court Reporter in violation of Rule 207(a)(1), SCACR.

Dated this the 20th day of June, 2014.




Fred W. Suggs, Jr.

Sworn to and subscribed before me
this the 20 day of June, 2014.



Notary Public for
My Commission Expires: 6-27-2023

Attachment A


220 St. Andrews Blvd
Campobello, SC 29322
April 23, 2014

Fred W. Suggs, Jr.
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
Post Office Box 2757
Greenville, SC 29602

Dear Mr. Suggs:

As required by South Carolina Appellate Court Rule 207, Transcript of Proceeding, please find enclosed a copy of a letter representative of the one sent to Court Reporter Linda Moffitt regarding the Appellant request for a transcript of record.

Sincerely yours,


Gary G. Harris

220 St Andrews Blvd
Campobello, SC 29322
April 17, 2014

Linda D. Moffitt
800 Belcher Road
Boiling Springs, SC 29316

Dear Ms. Moffitt:

I spoke with you by phone recently about getting a copy of transcript(s) (of record) from the Spartanburg County courthouse.

Here is the information regarding the transcript:

Case No: 2011-CP-42-4538
(Gary G. Harris v. Tietex International, Ltd)

Subject matter (transcript needed): Hearing of "Tietex Renewed Motion For Summary Judgment"

Hearing Date: February 6, 2014

Judge over Hearing : Honorable Judge J. Derham Cole

Litigants: Alan Lazenby for Plaintiff and Fred Suggs for Defendant (main litigants)

If you need any other information let me know. Would like to get ASAP. My mobile phone number is 864-316-8019 and email address: ggharris@windstream.net.

I look forward to hearing from you.

Sincerely yours,



Gary G. Harris

Attachment B

LAZENBY LAW FIRM, LLC

ATTORNEYS AT LAW

D. ALAN LAZENBY *
GINGER D. GOFORTH

*ALSO LICENSED IN GA

POST OFFICE BOX 6099 (29304)
340 E. MAIN ST., SUITE 240
SPARTANBURG, SC 29302
PHONE: 864-804-5050
FAX: 864-804-5051

May 20, 2014

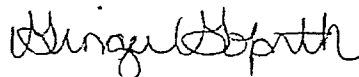
The Honorable Jenny Abbott Kitchings
Clerk of Court for Court Of Appeals
PO Box 11629
Columbia SC 29211-1629

Re: *Harris v. Tietex International Ltd.*
In the Court of Common Pleas for Spartanburg County
C.A. No: 2011-CP-42-4538
Appellate C.A. No: 2014-00902

Dear Ms. Kitchings,

Please accept this letter as notice that I, along with Alan Lazenby, represent Gary Harris in the referenced appeal. Thank you for your assistance.

Sincerely,



Ginger D. Goforth
ginger@lazenbylawfirm.com

GDG: jeh

cc: Fred Suggs, Esq. (via email only)
Mr. Gary Harris (via email only)
Alan Lazenby, Esq. (via email only)

Attachment C




English Customer Service USPS Mobile Register / Sign In



Search USPS.com or Track Packages Subr

Quick Tools Ship a Package Send Mail Manage Your Mail Shop Business Solutions

USPS Tracking™



Customer Service >
Have questions? We're here to help.

Tracking Number: 9114901230803282823598

Expected Delivery Day: Friday, May 9, 2014

Product & Tracking Information

Postal Product: Priority Mail 1-Day™
 Features: \$50 Insurance included USPS Tracking™

Available Actions

USPS Text Tracking™

Email Updates

DATE & TIME	STATUS OF ITEM	LOCATION
May 9, 2014, 11:44 am	Delivered	CAMPOBELLO, SC 29322

Your item was delivered at 11:44 am on May 9, 2014 in CAMPOBELLO, SC 29322.

May 9, 2014, 8:20 am	Out for Delivery	INMAN, SC 29349
May 9, 2014, 8:10 am	Sorting Complete	INMAN, SC 29349
May 9, 2014, 6:17 am	Arrival at Post Office	INMAN, SC 29349
May 9, 2014, 2:45 am	Processed through USPS Sort Facility	GREENVILLE, SC 29607
May 8, 2014, 10:48 pm	Depart USPS Sort Facility	GREENVILLE, SC 29607
May 8, 2014, 10:44 pm	Processed through USPS Sort Facility	GREENVILLE, SC 29607
May 8, 2014, 1:49 pm	Acceptance	SPARTANBURG, SC 29308

Track Another Package

What's your tracking (or receipt) number?

Track It

LEGAL

- Privacy Policy >
- Terms of Use >
- FOIA >
- No FEAR Act EEO Data >

ON USPS.COM

- Government Services >
- Buy Stamps & Shop >
- Print & Label with Postage >
- Customer Service >
- Delivering Solutions to the Last Mile >
- Site Index >

ON ABOUT.USPS.COM

- About USPS Home >
- Newsroom >
- USPS Service Alerts >
- Forms & Publications >
- Careers >

OTHER USPS SITES

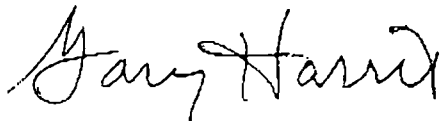
- Business Customer Gateway >
- Postal Inspectors >
- Inspector General >
- Postal Explorer >
- National Postal Museum >

May 1, 2014

Dear Ms. Moffitt:

Please find enclosed a money order for \$130.00 per your letter which has a copy enclosed.

Thanks,

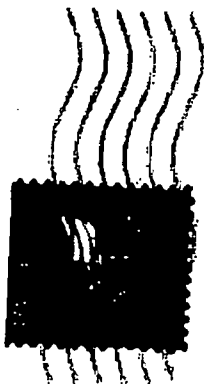
A handwritten signature in cursive script that reads "Gary Harris". The signature is written in black ink and is positioned above the printed name.

Gary G. Harris

220 S AMBERNS BLVD
CAMPBELL, SC 29322

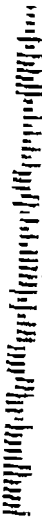
GREENVILLE SC 296

05 MAY 2014 PM 11



LINDA D. MAFFETT
GREAT CURRY REPAIRER
800 BELCHERE ROAD
SPRINGLAURE (Boiling Springs), SC

29316831400



29316

Attachment D

Suggs, Fred

From: Moffitt, Linda D. <LMoffitt@sccourts.org>
Sent: Sunday, June 15, 2014 10:17 PM
To: Suggs, Fred
Subject: Harris vs. Tietex

Mr. Suggs: I have received a call from your office in reference to the above matter concerning the delivery of the transcript to Mr. Harris. I have faxed to your office a copy of the letter from Mr. Harris, the envelope and tracking information from the office post showing the delivery date and time. I am going to be in a trial in Florence County this week. If you need to contact me, you can call my cell phone at (864)431-8844. Thank you, Linda Moffitt

RECEIVED

JUN 23 2014

SC Court of Appeals

Ogletree Deakins

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

Attorneys at Law

The Ogletree Building
300 North Main Street, Suite 500 (29601)
Post Office Box 2757
Greenville, SC 29602
Telephone: 864.271.1300
Facsimile: 864.235.4754
www.ogletreedeakins.com

June 20, 2014

Via FedEx

The Honorable Jenny Abbott Kitchings
Clerk of Court for Court Of Appeals
1015 Sumter Street
Columbia, SC 29201

Re: Gary G. Harris v. Tietex International, Ltd.
Case No.: 2011-CP-42-4538
Appellate Case No.: 2014-000902

Dear Ms. Kitchings:

Enclosed for filing are the original and seven (7) copies of the Respondent's Motion To Dismiss and Memorandum In Support Of Respondent's Motion To Dismiss And Return To Appellant's Motion To Extend Time in the above-referenced matter. Also enclosed is a check in the amount of \$25.00 for the filing fee. Please return a stamped "Filed" copy to us in the enclosed self-addressed prepaid envelope.

If you have any questions regarding this matter, please do not hesitate to contact us.

Sincerely,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.


Lucas J. Asper

RECEIVED

JUN 23 2014

SC Court of Appeals

LJA/tmm
Enclosures

cc: Alan Lazenby, Esq. w/ Enc. (via U.S. Mail)
Ginger Goforth, Esq. w/Enc. (via U.S. Mail)

18241537.1