

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

AUG 27 2014

APPEAL FROM MARION COUNTY  
Court of Common Pleas

**SC Court of Appeals**

Michael G. Nettles, Circuit Court Judge

73359

Case No.: 2012-CP-33-688

Kerry Silliman n/k/a Kerry Brown,.....Respondent,

v.

The Sherwin-Williams Company,.....Appellant.

**MOTION TO REINSTATE APPEAL**

Pursuant to Rule 260(a), SCACR, the Appellant Sherwin-Williams Company (“Sherwin-Williams”) moves for an order reinstating this appeal, which the Court dismissed in an Order filed on August 26, 2014. Sherwin-Williams makes this motion on the following grounds:

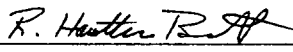
(1) The stated basis for the Court’s dismissal of the appeal is a failure by Sherwin-Williams to file its Initial Appellant’s Brief and Designation of Matter. However, Sherwin-Williams requested a copy of the trial transcript from the court reporter who served at the trial. (A copy of that request letter was sent to the Court on April 17, 2014.) To date, the attorneys for Sherwin-Williams have not received a copy of that trial transcript, nor have they been informed that the transcript has been completed. The attorneys for Sherwin-Williams are still waiting to receive the trial transcript from the court reporter.

(2) Under Rule 208(a), SCACR, an appellant's deadline for serving and filing an initial brief and designation of matter does not begin to run until receipt of the transcript of the proceedings below, if such a transcript has been ordered. Here, a transcript was ordered, but has not yet been received by Sherwin-Williams or its attorneys. Therefore, the deadline for serving and filing Sherwin-Williams' Initial Appellant's Brief and Designation of Matter has not yet been triggered and cannot have expired.

(3) The undersigned attorney for Sherwin-Williams has consulted with Blake Hewett, one of the attorneys of record for the Respondent, and Mr. Hewett has authorized the undersigned to represent to the Court that the Appellant consents to this motion.

(4) For these reasons, Sherwin-Williams respectfully submits that good cause exists to reinstate this appeal pursuant to Rule 260(a), SCACR, and that the Court should grant Sherwin-Williams' motion accordingly.

Respectfully submitted,

  
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Nicholas W. Gladd  
R. Hawthorne Barrett  
Turner Padgett Graham & Laney P.A.  
P.O. Box 1473  
Columbia, SC 29202  
(803) 254-2200

Attorneys for the Appellant

August 27, 2014

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**PROOF OF SERVICE**

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The undersigned, an attorney in this matter for the Appellant, certifies that I have this 27<sup>th</sup> day of August, 2014, served copies of the **Motion to Reinstate Appeal** upon all counsel of record for the Respondent by causing them to be deposited in the United States mail with sufficient postage attached, addressed to: Martin L. Stark and Joseph S. Sandefur; Parsons, Ouverson, Stark, Guest & Sandefur, P.A.; P.O. Box 2850; Murrells Inlet, SC 29576; and John S. Nichols and Blake A. Hewitt; Bluestein, Nichols, Thompson & Delgado, LLC; P.O. Box 7965; Columbia, SC 29202-7965.

(Signature on next page)

*R. Hawthorne Barrett*

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August 27, 2014

Attorneys for the Appellant

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**R. Hawthorne Barrett**

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**Direct Fax: (803) 400-1454**

August 27, 2014

**HAND-DELIVERED**

The Hon. Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, SC 29201

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AUG 27 2014

**SC Court of Appeals**

Re: Kerry Silliman v. The Sherwin-Williams Co.  
Appellate Case No.: 2014-000759  
Our File No.: 12009.00101

Dear Ms. Kitchings:

Enclosed are the following materials: (1) the original and seven copies of the Appellant's Motion to Reinstate Appeal; (2) the original and one copy of the Proof of Service; and (3) a check for the filing fee. Please file the originals and necessary copies and return the stamped extra copies to our courier. Thank you for your kind assistance.

Sincerely,

TURNER, PADGET, GRAHAM & LANEY, P.A.

*R. Hawthorne Barrett*

R. Hawthorne Barrett

RHB:  
Enclosures

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The Hon. Jenny Abbott Kitchings

August 27, 2014

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cc: Martin Linder Stark, Esq.  
Joseph Stanley Sandefur, Esq.  
John S. Nichols, Esq.  
Blake Alexander Hewitt, Esq.