

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas
William C. Tindal, Special Referee

Appellate Case No.: 2014-002370

RECEIVED

OCT 06 2014

SC Court of Appeals

7359

Ned Gregory, Jr.,-----Plaintiff/Respondent,

v.

Howell Jackson Gregory and
The Gregory Company, Inc. and The City of Lancaster----Defendants/Appellants.

Of whom Howell Jackson Gregory and The Gregory Company, Inc., are the
Appellants.

MOTION TO DISALLOW THE FILING OF THE FINAL BRIEF OF RESPONDENT
WITH SUPPORTING AUTHORITIES

H. Jackson Gregory
P.O. Box 7111
Myrtle Beach, S.C. 29572-0006
(843) 222-4800

James T. Irvin, Jr.
Irvin Law Firm, LLC
P.O. Box 2677
Myrtle Beach, S.C. 29278
Attorney for The Gregory Company Inc.
Appellant

Palmer Freeman, Esq.
P.O. Box 8024
Columbia, S.C. 29202
(803) 799-9400
Attorney for Ned Gregory, Jr., Respondent

TO: THE HONORABLE CHIEF JUDGE AND ASSOCIATE JUDGES OF THE
COURT OF APPEALS OF SOUTH CAROLINA

For reasons given below, Appellant moves to disallow the filing of Respondent's
Final Brief.

BACKGROUND:

That on August 22, 2014, Appellant served and filed the Record on Appeal in the consolidated Court of Appeals Case Number 2013-002370 with proof of service to the Honorable Jenny Abbott Kitchins, Clerk of the Court of Appeals. That, subsequently on August 27, 2014 three (3) pages that were inadvertently omitted from the Record on Appeal were mailed to the attorney for the Respondent, Palmer Freeman, Esq., P.O. Box 8024, Columbia, S.C. Those page were numbered 147, 148 and 149 of the Record on Appeal.

That on September 9, 2014, Appellants mailed to the Honorable Jenny Abbott Kitchins, Clerk of the Court of Appeals one (1) original unbound and (15) fifteen bound copies of Appellants' Record on Appeal, Appellants' Final Brief and Appellants' Final Reply Brief together with a certificate of service. That the proof of service attached reflected three (3) copies of the Record on Appeal, Appellants' Final Brief and Appellants' Final Reply Brief being served on attorney for Respondent, Palmer Freeman, Esq.

That on September 23, 2014, Palmer Freeman, Esq., attorney for Respondent serves his proposed Respondent's Final Brief by mail to the Clerk of the South Carolina Court of Appeals, H. Jackson Gregory and James T. Irvin, Jr. in an attempt to file said final Brief of Respondent with the Court.

ARGUMENT:

The South Carolina Court of Appeals should disallow the filing of the Final Brief of Respondent, as it violates Rule 211(a) of the South Carolina Appellate Court Rules, as it was not filed within twenty (20) days after the service of the Record on Appeal. There was no request, nor approval granted for the Final Brief of Respondent to be filed out of time.

Based on the filing of the Record on Appeal by Appellants on August 22, 2014, the Court take judicial notice that twenty (20) days following that service would be September 11, 2014. That Appellants served and filed their fifteen (15) copies of the Record on Appeal, Appellants' Final Brief and Appellants' Final Reply Brief on September 9, 2014, and within the twenty (20) day period set forth in Rule 211(a). That said rule contains the word "shall" a specific word of direction requiring each party to serve a copy of his final brief and file fifteen (15) copies of the final brief with the Clerk of the Appellate Court within twenty (20) days of service of the Record on Appeal. That Respondent has failed to so comply by attempting to serve and file the Final Brief of Respondent on September 23, 2014, which is twelve (12) days following the expiration of the twenty (20) day period.

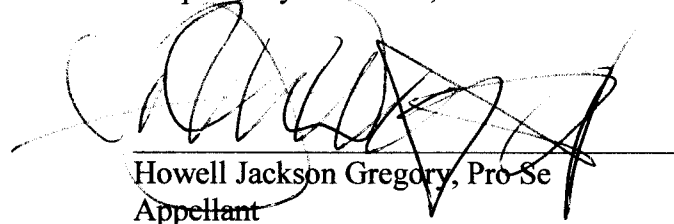
That Respondent did not request by motion from the court the right to file out of time, and was therefore not granted any permission to file after September 11, 2014, the expiration of the twenty (20) day requirement under Rule 211(a).

That even if an argument is made that the filing of the Record on Appeal did not occur until August 27, 2014 when the three (3) inadvertently omitted pages were then mailed to Palmer Freeman, Esq., then the twenty (20) day requirement under Rule 211(a) would extend from August 27, 2014 to September 16, 2014. Therefore, Respondent is seven (7) days late or out of date under this argument.

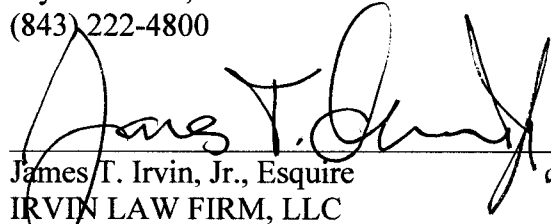
Also Respondent fails to comply with the May 14, 2014 letter from V. Claire Allen, Deputy Clerk in the caption of the case on appeal on the cover of the Final Brief of Respondent as he omits The Gregory Company Inc., as an Appellant in this action, and also violated Rule 211(b) as the proposed final Brief of Respondent is not identical to the Brief previously served under Rule 208, as it attempts to modify the caption. That this Rule also contains the word "shall" and is a word of direction.

Since Respondent has failed to comply with the strict requirement of Rule 211(a), and 211(b), and the direction by the court concerning the caption, without requesting or obtaining an order to file out of time, the court should disallow the service and attempted filing of Reply Brief of Respondent on September 23, 2014.

Respectfully submitted,



Howell Jackson Gregory, Pro Se
Appellant
P. O. Box 7111
Myrtle Beach, SC 29572-0006
(843) 222-4800



James T. Irvin, Jr., Esquire
IRVIN LAW FIRM, LLC
P. O. Box 2677
Myrtle Beach, SC 29578

Myrtle Beach, SC
October 2, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

OCT 06 2014

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

SC Court of Appeals

William C. Tindal, Special Referee

Consolidated Court of Appeals Case No. 2013-002370

Ned Gregory, Jr.,Plaintiff/Respondent,

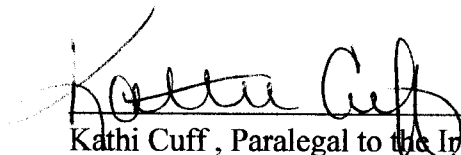
v.

Howell Jackson Gregory
and the Gregory Company,
Inc. and The City of Lancaster.....Defendants/Appellants.

PROOF OF SERVICE

I certify that I have served three (3) copies of the Motion to Disallow the Filing of the Final Brief of Respondent with Supporting Authorities on Palmer Freeman by depositing a copy of it in the United States Mail, postage prepaid, on October 2, 2014 addressed to Palmer Freeman, P.O. Box 8024, Columbia, SC 29201, attorney for Respondent. The original and five (5) copies are served by U.S. Mail to The Honorable Jenny Abbott Kitchings Clerk, SC Court of Appeals, at 1015 Sumter Street, Columbia, SC, 29201 on October 2, 2014.

October 2, 2014


Kathi Cuff, Paralegal to the Irvin Law Firm

**RULE 211
FINAL BRIEFS**

(a) Time to Serve and File. Within twenty (20) days after the service of the Record on Appeal, each party shall serve a copy of his final brief(s) on every other party to the appeal, and file fifteen (15) copies of the final brief(s) with the clerk of the appellate court. As provided by Rule 267(d), one copy filed with the appellate court shall be filed unbound. The party must also file with the clerk proof that the final brief(s) has been served, and a certificate that his final brief(s) complies with Rule 211(b). The appellate court may require a party to file additional copies of its brief(s).

(b) Content. The final brief(s) shall be identical to the brief(s) previously served under Rule 208, except for the following:

(1) References to the Record. The references in the initial brief shall be revised to indicate where the material appears in the Record on Appeal. These revised references may be in place of or in addition to the initial references, and shall be in the form indicated by the following examples: (R. p. 15, line 4) (R. p. 75, lines 8-20) (R. p. 90, line 1-p. 101, line 14) (R. pp. 29-31).

(2) Correction of Typographical Errors and Misspellings. The party may correct obvious typographical errors and misspellings which were contained in the initial brief. No other changes may be made.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

IRVIN LAW FIRM, LLC

James T. Irvin, Jr., Esquire
1101-C 3rd Avenue South
P.O. Box 2677
Myrtle Beach, SC 29578
Cell: (843) 222-3228

Office: (843) 445-6200
On the Web: www.jtirvinlaw.com

Fax: (843) 445-6202
Email: irvinlawfirm@aol.com

August 22, 2014

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
P. O. Box 11629
Columbia, SC 29211

RE: Consolidated Court of Appeals Case # 2013-002370

Appeal from Lancaster County – Case No. 2008-CP-29-1084
Appeal from Horry County – Case No. 2002-CP-26-1706

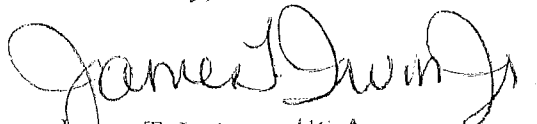
RECORD ON APPEAL

Dear Ms. Kitchings:

Enclosed herewith please find a Certificate of Service, serving Palmer Freeman, Esq. at P.O. Box 8024, Columbia, SC 29202, with the Record on Appeal with regard to the above referenced matter.

With kind regards, I am,

Yours truly,


James T. Irvin, Jr. *JTI*

JTI:kc
cc: Palmer Freeman, Esq.
Enclosures

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

William C. Tindal, Special Referee

Consolidated Court of Appeals Case No. 2013-002370

Ned Gregory, Jr.,Plaintiff/Respondent,

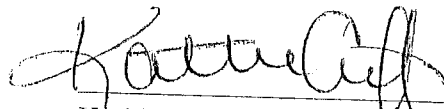
v.

Howell Jackson Gregory
and the Gregory Company,
Inc.,Defendants/Appellants.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on Palmer Freeman by depositing a copy of it in the United States Mail, postage prepaid, on August 22, 2014, addressed to Palmer Freeman, P.O. Box 8024, Columbia, SC 29201, attorney for Respondent.

August 22, 2014



Kathi Cuff, Paralegal to the Irvin Law Firm

IRVIN LAW FIRM, LLC

James T. Irvin, Jr., Esquire
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Fax: (843) 445-6202
Email: irvinlawfirm@aol.com

Like us on Facebook:
www.facebook.com/irvinlawfirm

August 27, 2014

Palmer Freeman, Esq.
P.O. Box 8024
Columbia, SC 29202

Re: Ned Gregory, Jr. Vs. Howell Jackson Gregory, et. al.
Consolidated Court of Appeals Case # 2013-002370

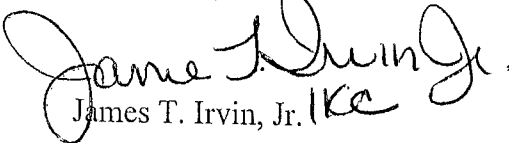
Dear Mr. Freeman:

On August 21, 2014 I forwarded to your office by mail, Appellant's Record on Appeal. It has come to my attention that pages 10 and 33 of matter to be included in the Record on Appeal, were inadvertently omitted. Therefore, I am hereby sending you these pages to insert into the Record on Appeal previously mail to you. Their page numbers are as follows: Page 10 is 147 of the Record on Appeal and Page 33 is 148 of the Record on Appeal.

Also enclosed is the Plat which was totally left out by mistake. It is page 149 in the Record on Appeal.

Thank you for your courtesy and cooperation in this matter. Should you have any questions, please do not hesitate to contact me.

Very truly yours,


James T. Irvin, Jr. JTI

JTI:kc

IRVIN LAW FIRM, LLC

James T. Irvin, Jr., Esquire
1101-C 3rd Avenue South
P.O. Box 2677
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On the Web: www.jimirvinlaw.com

Fax: (843) 445-6202
Email: irvinlawfirm@aol.com

September 9, 2014

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
P. O. Box 11629
Columbia, SC 29211

RE: Consolidated Court of Appeals Case # 2013-002370

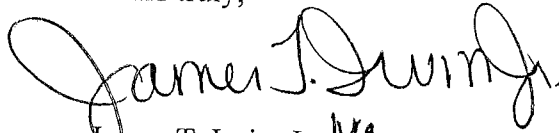
Appeal from Lancaster County – Case No. 2008-CP-29-1084
Appeal from Horry County – Case No. 2002-CP-26-1706

Dear Ms. Kitchings:

Enclosed herewith please find an original unbound and fifteen (15) bound copies of the Record on Appeal, Appellant's Final Brief, and Appellant's Final Reply Brief, together with a Certificate of Service with regard to the above referenced matter.

With kind regards, I am,

Yours truly,


James T. Irvin, Jr. *ke*

JTI:kc
cc: Palmer Freeman, Esq.
Enclosures

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

William C. Tindal, Special Referee

Consolidated Court of Appeals Case No. 2013-002370

Ned Gregory, Jr.,Plaintiff/Respondent,

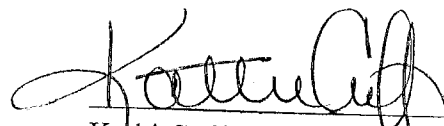
v.

Howell Jackson Gregory
and the Gregory Company,
Inc.,Defendants/Appellants.

PROOF OF SERVICE

I certify that I have served three (3) copies of the Record on Appeal, Appellant's Final Brief and Appellant's Final Reply Brief on Palmer Freeman by depositing a copy of it in the United States Mail, postage prepaid, on September 9, 2014, addressed to Palmer Freeman, P.O. Box 8024, Columbia, SC 29201, attorney for Respondent. The original and fifteen (15) copies are served by U.S. Mail to The Honorable Jenny Abbott Kitchings Clerk, SC Court of Appeals, at 1015 Sumter Street, Columbia, SC, 29201 on September 9, 2014.

September 9, 2014



Kathi Cuff, Paralegal to the Irvin Law Firm

PALMER FREEMAN
ATTORNEY
POST OFFICE BOX 8024
COLUMBIA, SC 29202

TEL. 803 799 9400
FAX 803 376 5084

Septmeber 23, 2014

H. Jackson Gregory
Post Office Box 7111
Myrtle Beach, South Carolina 29572-0006

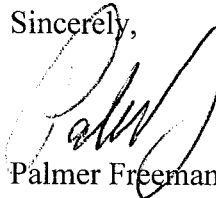
James T. Irvin
Irvin Law Firm
Post Office Box 2677
Myrtle Beach, South Carolina 29578-2677

Re: Ned Gregory, Jr. vs. Howell Jackson Gregory
Consolidated Court of Appeals Case 2013-002370

Dear Jack and Jim:

Enclosed please find a copy of Respondent's final brief, certification and proof of service in the above-captioned matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Palmer Freeman", written over a circular stamp or seal.

Palmer Freeman

PF/cbd
Enclosure
cc Ned Gregory, Jr.

PALMER FREEMAN
ATTORNEY
POST OFFICE BOX 8024
COLUMBIA, SC 29202

TEL. 803 799 9400
FAX 803 376 5084
EMAIL: PALMERFREE@MSN.COM

September 23, 2014

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1205 Pendleton Street
Columbia, South Carolina 29201

Re: Ned Gregory, Jr. vs. Howell Jackson Gregory and The Gregory Company, Inc.
Appeal from Lancaster County - Case No. 2008-CP-29-1084
Court of Appeals Case No. 2013-002370

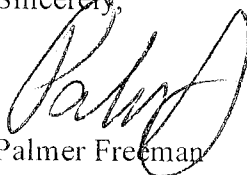
Dear Ms. Kitchings:

Please find enclosed for filing the unbound original and fourteen (14) bound copies of the Final Brief of Respondent. Also enclosed for filing is the Certificate of Service and Certificate of Counsel.

Thank you for your assistance in this matter. Should the Court have questions or require anything further, please contact me.

With best regards, I am,

Sincerely,



Palmer Freeman

PF/cbd

Enclosures

cc Ned Gregory
H. Jackson Gregory
James T. Irvin, Esquire

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LANCASTER COUNTY
COURT OF COMMON PLEAS

William C. Tindal, Special Referee

Appellate Case No. 2013-002370

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OCT 06 2014

SC Court of Appeals

Ned Gregory, Jr., Respondent,

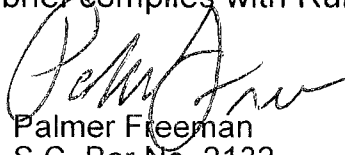
v.

Howell Jackson Gregory, The Gregory Company, Inc.,
and the City of Lancaster, Defendants,

Of whom Howell Jackson Gregory is the Appellant.

CERTIFICATE OF COUNSEL

I certify that respondent's final brief complies with Rule 211(b), SCACR.



Palmer Freeman
S.C. Bar No. 2132
Post Office Box 8024
Columbia, South Carolina 29202
(803) 799-9400

September 23, 2014.

Attorney for Respondent.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LANCASTER COUNTY
COURT OF COMMON PLEAS

William C. Tindal, Special Referee

Appellate Case No. 2013-002370

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SC Court of Appeals

Ned Gregory, Jr., Respondent,

v.

Howell Jackson Gregory, The Gregory Company, Inc.,
and the City of Lancaster, Defendants,

Of whom Howell Jackson Gregory is the Appellant.

CERTIFICATE OF SERVICE

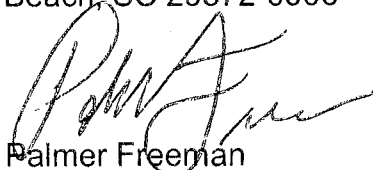
I certify that I served a copy of respondent's final brief upon the appellant The Gregory Company, Inc., by first class mail, postage prepaid, addressed to its attorney at his address of record, namely:

James T. Irvin, Jr.
Irvin Law Firm, LLC
P.O. Box 2677
Myrtle Beach, SC 29578

and upon appellant Howell Jackson Gregory at his address of record, namely:

Howell Jackson Gregory
P. O. Box 7111
Myrtle Beach, SC 29572-0006

on September 23, 2014.



Palmer Freeman
S.C. Bar No. 2132
Post Office Box 8024
Columbia, South Carolina 29202
(803) 799-9400

September 23, 2014.

Attorney for Respondent.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

May 14, 2014

Howell Jackson Gregory
PO Box 7111
Myrtle Beach SC 29572-0006

Mr. Palmer Freeman, Jr., Esquire
PO Box 8024
Columbia SC 29202

Mr. James T. Irvin, Jr., Esquire
PO Box 2677
Myrtle Beach SC 29578-2677

Re: Ned Gregory v. Howell Jackson Gregory AND Ned Gregory, Jr. v. H.
Jackson Gregory(2)
Appellate Case No. 2013-002370

RECEIVED

OCT 06 2014

SC Court of Appeals

Dear Counsel:

All parties are advised that the originals of all records on appeal and final briefs filed with the appellate courts are scanned. Therefore, in accordance with the May 1, 2008 Amendments to the South Carolina Appellate Court Rules, DO NOT staple, spiral bind, velobind, or otherwise permanently bind the ORIGINALS of these documents. The original brief(s) and record on appeal should still have front and back covers in compliance with Rule 267(e) of the South Carolina Appellate Court Rules, but should not be bound. You may secure the originals with paper clips, binder clips, rubber bands, by placing them in large envelopes, or by any other similar means that will keep the pages together without binding or hole-

punching. All COPIES of the record on appeal and final briefs should be bound as specified in the South Carolina Appellate Court Rules.

We suggest that large parcels such as copies of final briefs and the record on appeal be sent directly to the Court via the street address: 1205 Pendleton Street, Columbia, S.C. 29201. Thank you for your attention to this.

According to our records, the correct caption for this appeal should read as follows on the record on appeal and all final briefs:

Ned Gregory, Jr., Respondent,

v.

Howell Jackson Gregory, The Gregory Company, Inc., and the City of Lancaster,
Defendants,

Of whom Howell Jackson Gregory and The Gregory Company, Inc., are the
Appellants.

Furthermore, the Court anticipates that the attorney information for all attorneys receiving a copy of this letter will appear on the cover of the record on appeal. The attorney information for the party submitting the brief should appear on the final briefs.

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

Very truly yours,

V. Claire Allen, Deputy

CLERK

IRVIN LAW FIRM, LLC

James T. Irvin, Jr., Esquire
1101-C 3rd Avenue South
P.O. Box 2677
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Email: irvinlawfirm@aol.com

October 2, 2014

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
P. O. Box 11629
Columbia, SC 29211

RE: Consolidated Court of Appeals Case # 2013-002370

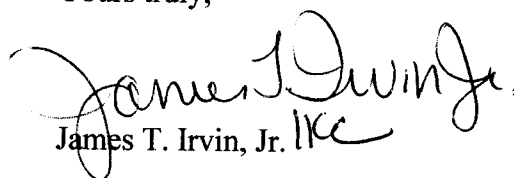
Appeal from Lancaster County – Case No. 2008-CP-29-1084
Appeal from Horry County – Case No. 2002-CP-26-1706

Dear Ms. Kitchings:

Enclosed herewith please find an original and five (5) copies of a Motion to Disallow the Filing of the Final Brief of Respondent with Supporting Authorities, together with a Certificate of Service with regard to the above referenced matter. Also enclosed is a check in the sum of \$25.00 representing the filing fee for the motion.

With kind regards, I am,

Yours truly,


James T. Irvin, Jr. *JTI*

JTI:kc
cc: Palmer Freeman, Esq.
Enclosures

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OCT 06 2014

SC Court of Appeals

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SC Court of Appeals

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