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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Marvin H. Dukes, III,
Master in Equity and Special Circuit Judge

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JAN 21 2015

SC Court of Appeals

CASE NO. 2014-001747

JOSEPH C. SUN..... Appellant

vs.

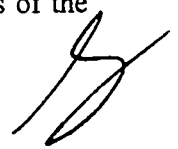
MARSHALL L. HORTON..... Respondents
AND RICHARD ULBRICH

RESPONDENT'S REPLY TO
APPELLANT'S RESPONSE TO RESPONDENT'S MOTION TO DISMISS, MOTION
TO STRIKE AND MOTION FOR SANCTIONS
AND
REQUEST TO STRIKE

Now comes, the Respondents, Marshall L. Horton (hereinafter the "Respondent") who replies to the Appellant's Response to Respondent's Motion to Dismiss, Motion to Strike and Motion for Sanctions (the "RESPONSE") filed with the Court of Appeals on January 8, 2015 and moves to strike the RESPONSE because it was not filed in time.

RESPONDENT'S RESPONSE

The Appellant's argument is simply that he ordered the transcript and has complied with the Court's Order. The Appellant states that the Respondent's Motion makes "several unintelligible complaints all without any factual or legal basis." The undersigned attempted to make the arguments in a clear and concise manner, but sometimes the undersigned fails to accomplish this goal. Therefore, the undersigned attempts to concisely explain the basis of the request in the next paragraph.



The Appellant should not be rewarded with additional time (from the September 9, 2014 Order) because the Appellant knowingly made a misrepresentation to the Court regarding the existence of the transcript. The Respondent believes that the time to order a transcript elapsed 10 days after September 9, 2014. Since the filing of the proof that the transcript was ordered was not timely, the appeal should be dismissed. Further, because of the time and expense involved proving that a transcript exists, the Appellant should be responsible for all of the Respondent's attorney's fees and costs.

The Appellant also argues that the initial motion was baseless. However, a significant amount of supporting information was provided with the original brief and supports the arguments of counsel.

REQUEST TO STRIKE THE APPELLANT'S RESPONSE TO RESPONDENT'S MOTION TO DISMISS, MOTION TO STRIKE AND MOTIONS FOR SANCTIONS

The Respondent moves to strike the Appellant's RESPONSE because it is not timely. The undersigned calculates that the RESPONSE was due on December 18, 2014 for the reasons set forth below.

A review of the Court record reveals the following:

- On December 18, 2014 the Respondent served the Motion to Dismiss, Motion to Strike and Motion for Sanctions on Appellant, Joseph Sun. (See Certificate of Service – Exhibit "A").
- On January 6, 2015, the Appellant claims that he served the REPLY on the undersigned. However, the undersigned has not received a copy of the REPLY, but located it on the Court's website.

The Respondent moves to strike the RESPONSE because it is untimely and does not comply with South Carolina Appellate Court Rules: Rule 240(a), which provides that:

[RULE 240]...governs all motions or petitions filed in the appellate court, including but not limited to: motions for extension of time, motions to reinstate, petitions for rehearing, motions to be relieved as counsel or for substitution of counsel, petitions for supersedeas, motions to remand or dismiss and petitions for hearing en banc. Where Rules 241 through 246 provide different or additional requirements or procedures, those requirements or procedures shall apply.



South Carolina Appellate Court Rules: Rule 240(e), provides a ten (10) day time limit following the date of service to file any response which opposes the majority of the motions before the Court. The entirety of South Carolina Appellate Court Rules: Rule 240(e), is copied below:

(e) Return to Motion. Any party opposing a motion or petition shall have ten (10) days from the date of service thereof to file an original and six (6) copies of his return with the clerk and serve on all parties a copy of the return; provided, however, a return to a petition or motion for rehearing under Rule 221 need not be filed unless requested by the court. The court may in its discretion enlarge or limit the time for filing the return. The provisions of Rule 240(c) shall apply to a return. Failure of a party to timely file a return may be deemed a consent by that party to the relief sought in the motion or petition

Pursuant to the undersigned's calculations, the RESPONSE is untimely as the time period began to run on the date of service, December 18, 2014 and the undersigned calculates that the RESPONSE was required to be served by December 29, 2014. The RESPONSE was served on January 6, 2015 and is therefore untimely and should be stricken and disregarded by the Court.

CONCLUSION

For the foregoing reasons, the Respondent moves for a Court Order which: (1) dismisses the case; (2) sanctions the Appellant; and (3) strikes the RESPONSE.

GALVIN LAW GROUP, INC.

Gregory Michael Galvin, Esq.
P.O. Box 887
Bluffton, SC 29910
843-227-2231
888-362-0714 Fax
ggalvin@galvinlawgroup.com

Bluffton, South Carolina
15th day of January, 2015

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CASE NO. 2014-001747

JOSEPH C. SUN..... Appellant

vs.

MARSHALL L. HORTON..... Respondents
AND RICHARD ULBRICH

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the RESPONDENT'S MOTION TO DISMISS, MOTION TO STRIKE AND MOTION FOR SANCTIONS by mailing a true and correct copy of same to the following, with adequate postage affixed thereto, addressed as follows:

Joseph Sun
Post Office Box 151
Bluffton, SC 29910

Lindsay Goodman, Esq.
Post Office Box 3766
Bluffton, South Carolina 29910

GALVIN LAW GROUP, INC.

Gregory Michael Galvin, Esq.
P.O. Box 887
Bluffton, SC 29910
843-227-2231
888-362-0714 Fax
ggalvin@galvinlawgroup.com

Bluffton, South Carolina
18th day of December, 2014

Exhibit "A"

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JOSEPH C. SUN..... Appellant

vs.

MARSHALL L. HORTON..... Respondents
AND RICHARD ULBRICH

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the **RESPONDENT'S RESPONSE TO APPELLANT'S REPLY TO RESPONDENT'S MOTION TO DISMISS, MOTION TO STRIKE AND MOTION FOR SANCTIONS AND REQUEST TO STRIKE** by mailing a true and correct copy of same to the following, with adequate postage affixed thereto, addressed as follows:

Joseph Sun
Post Office Box 151
Bluffton, SC 29910

Lindsay Goodman, Esq.
Post Office Box 3766
Bluffton, South Carolina 29910

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Bluffton, South Carolina
15th day of January, 2015



Galvin Law Group

Probate ■ Criminal Defense ■ Civil Litigation ■ Real Estate

Licensed in District of Columbia, Ohio & South Carolina
Special Assistant Attorney General for the State of Georgia
Also licensed as a Patent Attorney before the United States Patent & Trademark Office

January 15, 2015

Via Federal Express

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29201

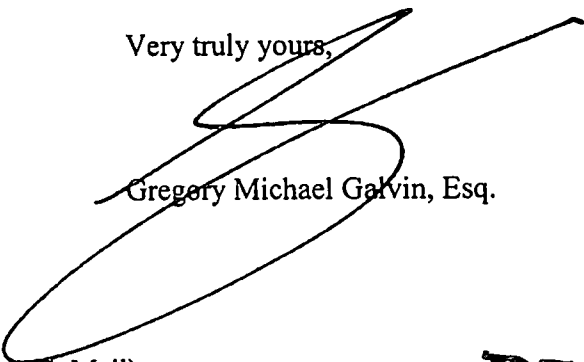
RE: Joseph Sun vs. Marshall Horton
Case No. 2014-001747

Enclosed please find for filing in connection with the above-mentioned matter:

An original and Seven (7) copies of the Respondent's Response to Appellant's Reply to Respondent's Motion to Dismiss, Motion to Strike and Motion for Sanctions and Request to Strike. Please file the original documents and provide me with one time-stamped copy of each document. By copying all parties, I am serving them with a copy of this letter.

Should you require any additional information in order to process this request, please do not hesitate to contact me.

Very truly yours,


Gregory Michael Galvin, Esq.

cc: Joseph Sun (via U.S. Mail)
Lindsay Goodman, Esq. (via U.S. Mail)
Marshall Horton, Esq. (via electronic mail)

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