

C. HOLMES, M.D.
P.O. Box 187
Sullivans Island, SC 29482
843.883.3010

Fax: 803.734.1839

The Honorable Jenny Kitchings
South Carolina Court of Appeals
Post Office Box 11629
1220 Senate St.
Columbia, SC 29211 / 29201

RECEIVED

DEC 29 2015

SC Court of Appeals

Re: Doe v BZA et al
App. Case No. 2015-002297


Dear Ms. Kitchings:

We hope this letter finds you and your kind staff well. We sincerely appreciate the important work all of you do every day with even-handedness and fairness. Thank you for your correspondence dated December 16, 2015 (attached). Please accept this letter in response and please be assured the other side is copied as indicated below and in the attached affidavit. We are concerned because the COA letter dated December 16, 2015, which we received (attached), is not the same letter that appears on the COA website bearing the same date. Instead, a completely different letter, which we have not received, appears on the COA website bearing the date of December 16, 2015. Moreover, the December 16, 2015, letter which we received (attached), contains additional discrepancies/inadvertencies including the "address of the opposing parties must be

included" as per Form 7 in Appendix C to part II of the SCACR; however, upon review, multiple attorneys have diligently searched and have determined that the "address of the opposing parties" is not contained in Form 7 in Appendix C to part II of the SCACR. Chief Justice Toal confirms the same in her authoritative text. Toal *et al.*, *Appellate Practice in South Carolina (2002)*, p. 146. With regard to the December 16, 2015, letter which we received (attached), our correspondence referenced in that letter is date-stamped December 7, 2015. The postmark as shown on the COA website confirms it was timely mailed on or before December 3, 2015. It was timely forwarded to opposing counsel which is indicated by the "cc" on page two of the letter as per the COA website and as per the attached affidavit; it was not returned. Further, pursuant to Rule 203, SCACR, your kind staff noted stay pending timely Rule 59, SCRCPP, motion (see attached date-stamp). With regard to the December 16, 2015 letter we did not receive, there is a pending Rule 59(e), SCRCPP, motion and we have not yet received written notice of the order or judgment. Rule 59(f), SCRCPP, and Rule 203(b), SCACR. In addition, Court Administration has confirmed receipt of the transcript request despite inadvertent use of the previous Sumter Street address. We apologize for any inconvenience. Also, enclosed please find a copy of this correspondence with SASE for return.

Again, thank you for your help with this matter and we wish you and your kind staff a joyous Holiday Season. Please do not hesitate to contact us at 843.883.3010 with any questions. With warmest regards, I remain

Sincerely yours,



cc:T. Walker
16 Charlotte St.
Chas., SC 29403



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

December 16, 2015

Cynthia Holmes
PO Box 187
Sullivan's Island SC 29482

Re: John Doe v. Board of Zoning Appeals
Appellate Case No. 2015-002297

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DEC 29 2015

SC Court of Appeals

Dear Dr. Holmes:

Upon reviewing your correspondence received December 7, 2015, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or your appeal will be dismissed:

- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR. The name and address of the opposing parties must be included in this document.
- The document does not include a copy of the letter that you indicate was submitted to Court Administration regarding the transcript.
- Your document is not dated.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: John Phillips Linton, Jr., Esquire
George Trenholm Walker, Esquire

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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

AFFIDAVIT

DEC 29 2015

SC Court of Appeals

Personally came and appeared before me, Notary Public, C. Holmes, who upon being duly sworn did depose and say the following:

1) This affidavit is submitted in response to the attached COA correspondence dated December 16, 2015, and I am the appellant.

2) I certify that the other side has been timely copied with the documents and affidavits herein by depositing a copy in the United States Mail, postage prepaid, addressed to the attorney of record, T.Walker, at 16 Charlotte St., Chas., SC 29403.

3) The attached COA letter dated December 16, 2015, was received, but is not the same letter that appears on the COA website bearing that same date. Instead, a completely different letter, which has not been received, appears on the COA website bearing the date of December 16, 2015. It appears that a different letter dated December 16, 2015, was mailed to the appellant but that letter does not appear on the COA website while the letter which does appear on the COA website dated December 16, 2015, was never mailed to or received by the appellant. See attached copy from the COA website showing the December 16, 2015, entry.

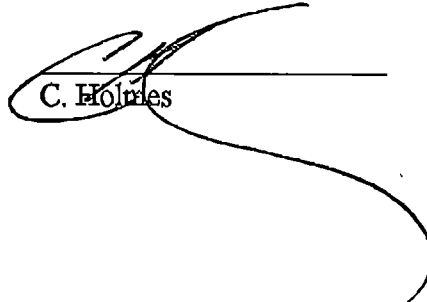
4) Moreover, the attached December 16, 2015, letter which was received, contains additional discrepancies/inadvertencies including the "address of the opposing parties must be included" as per Form 7 in Appendix C to part II of the SCACR; however, upon review, multiple attorneys have diligently searched and have determined that the "address of the opposing parties" is not contained in Form 7 in Appendix C to part II of the SCACR.

5) With regard to the attached December 16, 2015, letter which we received, our correspondence referenced in that letter is date-stamped December 7, 2015. The postmark as shown on the COA website confirms it was timely mailed on or before December 3, 2015. It was timely forwarded to opposing counsel T.Walker, at 16 Charlotte St., Chas., SC 29403, which is indicated by the "cc" on page two of the letter as per the COA website and it was not returned.

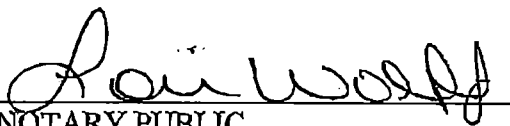
6) Rule 59(e), SCRCP, motion (see attached date-stamp) is currently pending. With regard to the December 16, 2015 letter we did not receive, there is a pending Rule 59(e), SCRCP, motion and we have not yet received written notice of the order or judgment. Rule 59(f), SCRCP, and Rule 203(b), SCACR.

7) Court Administration has confirmed receipt of the copy of the transcript request. We apologize for any inconvenience caused by the inadvertent use of the previous address as 1015 Sumter Street, Suite 200, Columbia, SC 29201.

FURTHER THE AFFLIANT SAITH NOT.


C. Holmes

Subscribed and sworn to before me,
Notary Public, this 21st day
of December, 2015.


NOTARY PUBLIC

My commission expires: July 27, 2025

LORI WOLFF
Notary Public - State of South Carolina
My Commission Expires July 27, 2025

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SC Court of Appeals



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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December 16, 2015

Cynthia Holmes
PO Box 187
Sullivan's Island SC 29482

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DEC 29 2015

SC Court of Appeals

Re: John Doe v. Board of Zoning Appeals
Appellate Case No. 2015-002297

Dear Dr. Holmes:

Upon reviewing your correspondence received December 7, 2015, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or your appeal will be dismissed:

- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR. The name and address of the opposing parties must be included in this document.
- The document does not include a copy of the letter that you indicate was submitted to Court Administration regarding the transcript.
- Your document is not dated.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: John Phillips Linton, Jr., Esquire
George Trenholm Walker, Esquire

South Carolina Appellate Case Manager

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SUPREME COURT
COURT OF APPEALS

Cases

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Disclaimer: The information and documents available here should not
Only filed documents can be viewed. Some documents received in
Some documents originating from a lower court, including records and a

Case Information: 2015-002297

Court:	Court of Appeals	Classifi
Short Title:	John Doe v. Board of Zoning Appeals	Case St
	View Full Title	
Consolidated:		
Filed Date:	11/05/2015	Oral Ar Date:
Disposition Date:		Disposl
Remittitur Date:		
Lower Court or Tribunal:	Charleston (2015CP1000775)	

- Party Information

Appellate Role	Party Name
Appellant	Cynthia Holmes
Respondent	Board of Zoning Appeals (BZA)
Respondent	S.I. Building Dept., Individually and In Official Capacity
Respondent	S.I. Zoning Administrator
Respondent	Town of Sullivans Island (S.I.)

Views

Display:

Event Information

Filed Date	Event Information
12/16/2015	Deficiency - Deficiency Letter Sent (2nd letter regarding <i>notice of appeal</i>)
12/07/2015	Deficiency - Correction (notice of appeal)
12/03/2015	Deficiency - Correction (transcript)
11/23/2015	Deficiency - Deficiency Letter Sent (transcript)

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
) CASE NO.: 15-CP-10-0773

John Doe,

Plaintiff,

-vs-

) NOTICE OF MOTION
) AND
) RULE 59(e), SCRPC, MOTION

Board of Zoning Appeals (BZA) and
Town of Sullivan's Island (S.I.),
S. I. Zoning Administrator, and
S. I. Building Dept.,
Individually and In Official
Capacity.

Defendants.

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DEC 29 2015

SC Court of Appeals

FILED
2015 OCT 21 PM 12:58
JULIE J. ANDERSON
CLERK OF COURT

TO: Attorney for Defendants:

PLEASE TAKE NOTICE that the Plaintiff will move before the Presiding Judge, Court of Common Pleas, Ninth Judicial Circuit, Charleston, South Carolina, on the tenth day after service hereof, or as soon thereafter as counsel may be heard, for an order to alter or amend the order entered September 23, 2015, and the order entered September 29, 2015. The orders err as a matter of law and material fact, including but not limited to, because there was notice only for the May 7, 2015, motion. All rights are raised, preserved, and not waived. Accordingly, the orders should be reversed, altered, and/or amended.

DAVID E. HARRISMAN
 J. LEON H. HOLMES
 THOMAS H. WHITE
 DALE E. VAN BLANKENBORG
 MALCOLM K. COOPER, JR.
 STEVEN E. GOLDBERG
 KEVIN E. SMITH
 MICHAEL J. JORDAN
 CHARLES E. GOLDBERG, III, OF COURSE
 HURON M. SPITZ (RETIRED)
 ERNE STEINBERG (1902-1986)

THE STEINBERG
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DONNYDRA ANNEX
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 DIRECT DIAL (843) 255-1701
 FAX (843) 255-1702

SUMMERVILLE OFFICE
 107 SOUTH MAIN STREET
 SUMMERVILLE, SC 29583
 TELEPHONE (843) 871-5522
 FAX (843) 871-5525

FAX COVER SHEET

To: _____
 Fax: _____
 Phone: _____

From: **RECEIVED**
 Pages: DEC 29 2015
 Date: SC Court of Appeals

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