

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Brooks P. Goldsmith, Circuit Court Judge

Case No. 2010-CP-12-0168

In the Matter of the Estate of Reba P. Hinson, Probate 2008-ES-12-297,

Mell Woods Appellant,

v.

Robert H. Breakfield, Esquire, as Personal Representative
of the Estate of Reba Hinson Respondent.

RESPONDENT'S REPLY TO
APPELLANT'S RETURN TO
MOTION TO DISMISS APPEAL OR ALTERNATIVELY
TO COMPEL A PROPER RECORD ON APPEAL

Appellant's Return was served on August 29, 2012. Pursuant to Rule 263(a), SCACR, September 1, 2 and 3 are excluded from the five-day period for service of this Reply.

Appellant's Return did not address his deficient Index to the Record on Appeal.


Appellant's Return did not address the missing Motion for Reconsideration dated March 11, 2011.

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SC Court of Appeals

Appellant's Return did not address the missing Order (Judge Goldsmith) dated December 29, 2011 in case no. 2011-CP-12-0323, except to say that the Order is in a different case. It is a matter of public record and is available to Appellant for inclusion in the Record on Appeal.

Appellant's response to the missing designated pages from his own deposition transcript was to say that the designated material "is not even in the record, and is not available to the appellant to produce." (Appellant's Return, p. 2, l. 6-9). Exhibit 7 to the Breakfield affidavit was submitted to the trial court and was "on record" in the summary judgment proceedings (R. p. 611, l. 2-9 and p. 619, l. 2-10). That exhibit was not included in the Record on Appeal and is not effectively addressed in Appellant's Return. (R. 678 and 603.)

If the Motion to Dismiss Appeal is denied, Respondent has moved the court to compel Appellant to serve a complete and proper Record on Appeal and moved for a stay of the normal briefing schedule until the deficiencies of the Record on Appeal are resolved.



B. Michael Brackett, S.C. Bar # 838
Moses & Brackett, PC
P.O. Box 100261
Columbia, SC 29202
803.461.2312
Attorney for Respondent

September 5, 2012

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

COUNTY OF CHESTER

2010-CP-12-0168

IN THE MATTER OF: THE ESTATE
OF REBA P. HINSON, PETITION FOR
ALLOWANCE OF CLAIM

Mell Woods,

CERTIFICATE OF SERVICE

Plaintiff-Claimant,

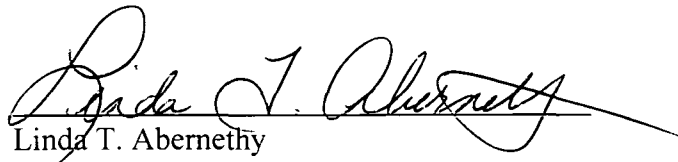
v.

Robert H. Breakfield, as Personal
Representative of the Estate of
Reba P. Hinson,

Defendant

I, Linda T. Abernethy, Legal Assistant to B. Michael Brackett, Esquire, attorney for the Defendant in the above-captioned matter, do hereby certify that I have served the Plaintiff, Mell Woods, with a copy of **Respondent's Reply to Appellant's Return to the pending Motion to Dismiss Appeal or Alternatively to Compel a Proper Record on Appeal**, postage prepaid and return address clearly indicated on said envelope, on this 5th day of September, 2012 at the following address:

Mell Woods
P. O. Box 2603
Lancaster, SC 29721
Plaintiff, pro se


Linda T. Abernethy

MOSES & BRACKETT, PC

ATTORNEYS AND COUNSELORS AT LAW

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B. Michael Brackett
Direct Dial: (803) 461-2312
Email: mbrackett@mkb-law.com

September 5, 2012

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RE: Woods v. Breakfield, Personal Representative
2010-CP-12-0168
Appellate Case No.: 2011191876
Our File Number - 12085.1

Dear Ms. Kitchings:

Enclosed for filing please find the original and six copies of Respondent's Reply to Appellant's Return to the pending Motion to Dismiss Appeal or Alternatively to Compel a Proper Record on Appeal.

By copy of this letter, a copy of the enclosed Reply is being served upon the Appellant, personally, who has appeared pro se throughout the proceedings.

Please return a clocked copy of the Reply using the envelope provided.

Very truly yours,



B. Michael Brackett

BMB/lta
Enclosures

cc. Robert H. Breakfield, Esquire
Mell Woods, pro se

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