



The South Carolina Court of Appeals

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V. CLAIRE ALLEN
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October 19, 2016

The Honorable Beth Carrigg
205 E Main St Ste 146
Lexington SC 29072-3557

REMITTITUR

Re: James Spencer v. John Rakowsky (3)
Lower Court Case No. 2012CP3203428
Appellate Case No. 2014-000091

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: James Spencer
Benjamin C. Bruner, Esquire
David W. Overstreet, Esquire
Warren C. Powell, Jr., Esquire
Michael B. McCall, Esquire

The South Carolina Court of Appeals

James Spencer, individually and on behalf of the Estate
of Doris Holt and on behalf of Southern Holdings, Inc,
Plaintiffs,

Of whom James Spencer is the Appellant,

v.

John R. Rakowsky, Adrian L. Falgione, and The Law
Offices of Adrian Falgione, LLC, Defendants,

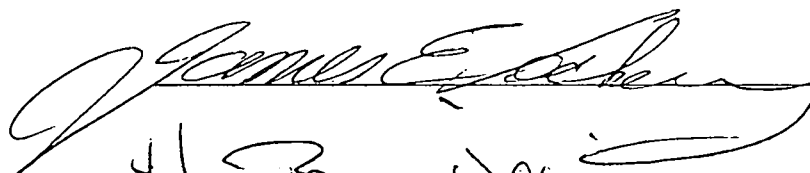
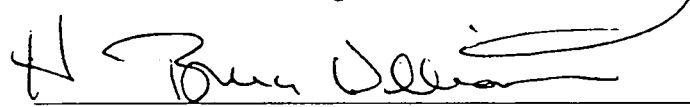
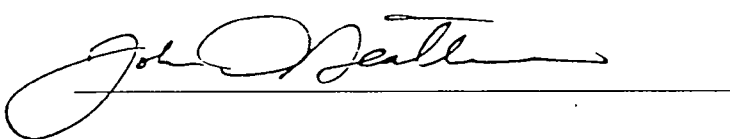
Of whom John R. Rakowsky and Adrian L. Falgione are
the Respondents.

Appellate Case No. 2014-000091

ORDER

Appellant has filed a motion to reinstate, which we construe as a petition to rehear the dismissal of this appeal. The notice of appeal for this case was served and filed on January 13, 2014. Since that date, this appeal has been dismissed three times due to Appellant's failure to serve and file documents in accordance with the South Carolina Appellate Court Rules. In November 2015, Respondents first moved to dismiss this appeal due to Appellant's failure to serve and file the record on appeal. On November 25, 2015, this court denied Respondents motions and allowed Appellant to file the record out of time. After the record was filed, Respondents again moved to dismiss the appeal because the record was untimely, did not include all items designated by the parties, and included items not designated by any party. On January 21, 2016, this court allowed Appellant to submit an amended record that included all items from Respondents' designations of matter. Appellant filed an amended record; however it was also incomplete. Accordingly, this court dismissed the appeal on March 4, 2016. On March 21, 2016, Appellant filed the motion to reinstate. Respondent Falgione filed a return to the motion that

included many of the items missing from the record. This court observed that Appellant should have had all designated items in his possession with the exception of three items, which the court ordered Respondents to produce if possible. Respondents produced two of the three items, and On June 28, 2016, Appellant filed a third record, which was again incomplete. On July 8, 2016, Appellant filed a fourth record that omitted two of Respondents' designated items. Because Appellant has failed to serve and file a complete record on appeal in the two-and-a-half years since this appeal was initiated, Appellant's petition to rehear the dismissal of this appeal is denied. The remittitur will be sent as provided by Rule 221(b), SCACR.

 J.
 J.
 J.

Columbia, South Carolina

FILED

August 31, 2016

cc: James Spencer
Benjamin C. Bruner, Esquire
David W. Overstreet, Esquire
Warren C. Powell, Jr., Esquire
Michael B. McCall, Esquire

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Offices of Adrian Falgione, LLC, Defendants,

Of whom John R. Rakowsky and Adrian L. Falgione are
the Respondents.

Appellate Case No. 2014-000091

ORDER

This appeal is dismissed due to Appellant's repeated failure to serve and file a record on appeal that includes all matters designated by the parties. Appellant's motion for sanctions is denied.


FOR THE COURT

Columbia, South Carolina

cc: James Spencer
Benjamin C. Bruner, Esquire
David W. Overstreet, Esquire

FILED

March 4, 2016

Warren C. Powell, Jr., Esquire
Michael B. McCall, Esquire