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April 27, 2017

Ms. V. Claire Allen  
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The South Carolina Court of Appeals  
Post Office Bix 11629  
Columbia, South Carolina 29211

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MAY 01 2017

SC Court of Appeals

Re: Natasha Turner v. Michael Kellett  
Appellate Case No. 2016-001-1425

Dear Ms. Allen:

By your letter of April 24, you returned the Respondent-Appellant's (Turner's) Reply Brief on the cross appeal because, you said, no responsive brief had been filed by the Appellant-Respondent (Kellett) on the cross appeal.

In fact, Kellett did file a responsive brief in the cross appeal; and therefore we believe our reply brief was properly filed. The confusion results because Kellett's responsive brief is captioned "Reply Brief of the Appellants" and thus on the surface would appear to relate only to Kellett's appeal and not to Turner's cross appeal.

However, it is clear from the context of the brief that it actually relates both to the issues involved in Kellett's appeal and also those involved in Turner's cross appeal. Argument I (Kellett's breach of contract) deals primarily with Kellett's breach of contract, fraud and conversion, all issues involved in the cross appeal. Argument II deals with the unfair trade practices claim, issues in Kellett's appeal rather than the cross appeal. Arguments III and IV deal with Turner's claims for punitive damages and attorney fees, issues in Turner's cross appeal.

We do not want to have Kellett's attorney put to the time and trouble of rewriting his brief to separate the two elements involved; and we certainly do not claim that he is in default by failing to file a brief in response to Turner's cross appeal. But we do believe Kellett's "Reply Brief of the Appellants" should be recaptioned to reflect that it is both a reply brief in Kellett's appeal,

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*Ms. V. Claire Allen*

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and a responsive brief in Turner's cross appeal.

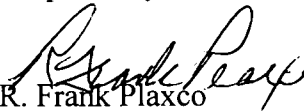
Therefore, we are resubmitting Respondent-Appellant's Reply Brief in the cross appeal, and ask that the Court accept it as properly filed.

We are responsible for part of the confusion. Kellett's very fine attorney is responsible in part. But we respectfully suggest that the confusion also stems from the fact that the Appellate Rules are silent on the procedures and nomenclature of briefs when cross appeals are involved. It would be helpful to the lawyers and the Court for the rules to specify the briefs allowed and the captioning of briefs in cases involving cross appeals. Perhaps the briefs could be captioned to identify whether they relate to the appeal or to the cross appeal.

Cross appeals are not common - this is my first in 61 years of practice. But they do occur.

Thank you for your kindness and assistance.

Respectfully submitted,

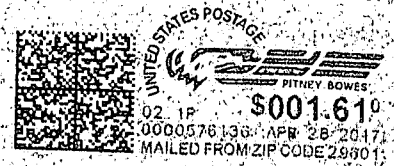
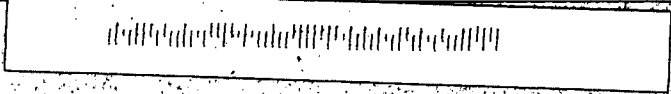


R. Frank Plaxco

Co-Counsel for the Respondent-Appellant

Encl. Appellant's Initial and Final Briefs of the Respondent-Appellant on the Cross Appeal

cc: Clifford F. Gaddy, Jr., Esq.  
Joseph M. Plaxco, Esq.



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