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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Honorable Charles B. Simmons, Jr.

Case No. 2015-CP-23-05871

Scott E. Bisbee and South Carolina Department of Revenue, Respondents,

v.

Classic Pools of Spartanburg, LLC,Appellant.

APPELLANT'S MOTION TO ORDER TRANSCRIPT AFTER TIME

Other Counsel of Record:
Mr. C. Richard Stewart
Attorney at Law
11 Whitsett Street
Greenville, SC 29601

Milton G. Kimpson
General Counsel for Litigation
South Carolina Department of Revenue
P.O. Box 12265
Columbia, SC 29211

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SC Court of Appeals

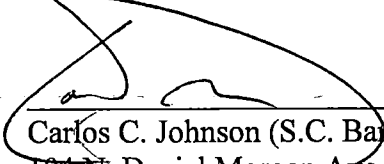
YOU WILL PLEASE TAKE NOTICE that pursuant to Rules 240 and 263 of the South Carolina Appellate Court Rules, the undersigned, as attorney for Classic Pools of Spartanburg, LLC (“Classic Pools”), hereby moves before this Honorable Court for an order allowing Classic Pools to order the transcript of the proceeding below after time in this matter. Classic Pools’ request should be granted because its failure to order the transcript was the result of its counsel’s mistaken belief, pursuant to a telephone call said counsel received from the Court, that there was a proper party and/or case caption issue that needed to be resolved before the appeal would proceed and the transcript should be ordered. Therefore, Classic Pools’ failure to order the transcript constitutes mistake and excusable neglect.

The undersigned counsel for Classic Pools first realized that Rule 207 of the South Carolina Appellate Court Rules had been misunderstood on June 14, 2017 upon review of this Court’s June 12, 2017 letter, and said counsel immediately ordered the transcript of the proceeding below.

In Micronics, Inc. v. South Carolina Department of Revenue, 345 S.C. 506, 548 S.E.2d 223 (Ct. App. 2001), this Court reiterated long standing South Carolina policy stating that, “where there is good faith mistake of fact, and no attempt to thwart the judicial system, there is basis for relief.” Micronics, 345 S.C. at 511, 548 S.E.2d at 226. In Micronics, this Court granted relief from a default judgment that was entered after Micronics failed to appear at a contested hearing when its president became confused about a re-scheduled hearing date. Additionally, this Court has clearly stated that, “South Carolina policy favors the disposition of issues on their merits rather than on technicalities.” *Id.*

In the instant matter, Classic Pools' failure to order the transcript of the proceeding below resulted from a good faith mistake regarding the time frame for ordering said transcript and was in no way an attempt to thwart justice. Accordingly, Classic Pools respectfully requests that this Honorable Court issue an order allowing Classic Pools to order the transcript of the proceeding below after time.

LYLES, DARR & CLARK, LLC



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Attorneys for Appellant

June 15, 2017
Spartanburg, South Carolina

THE STATE OF SOUTH CAROLINA
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APPEAL FROM GREENVILLE COUNTY
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Case No. 2015-CP-23-05871

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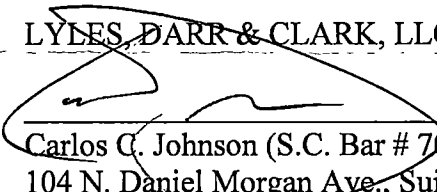
v.

Classic Pools of Spartanburg, Inc., Appellant.

PROOF OF SERVICE

I certify that I have served the Motion to Order Transcript After Time on Scott E. Bisbee, by depositing a copy of it in the United States Mail, postage prepaid, on June 15, 2017 addressed to his attorney of record, C. Richard Stewart, Attorney at Law, 11 Whitsett Street, Greenville, South Carolina 29601 and upon South Carolina Department of Revenue, by depositing a copy of it in the United States Mail, postage prepared, on June 15, 2017 addressed to its attorney Milton G. Kimpson, Post Office Box 12265, Columbia, South Carolina, 29211.

LYLES, DARR & CLARK, LLC


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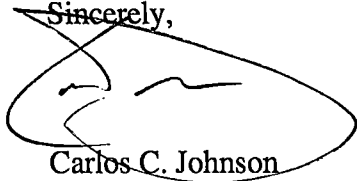
The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Classic Pools of Spartanburg, LLC. v. Scott E. Bisbee, et al
Case Number: 2015-CP-23-05871

Dear Ms. Kitchings:

Enclosed for filing is a Motion to Order Transcript After Time in the above-referenced case. Also enclosed are Proof of Service of the Motion to Order Transcript After Time on Scott E. Bisbee and South Carolina Department of Revenue and our check in the amount of \$25 for the filing fee.

Sincerely,



Carlos C. Johnson

CCJ:fb

Enclosures

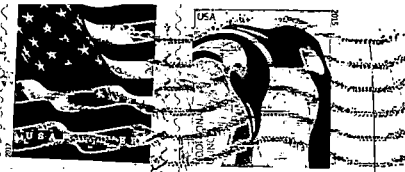
cc: Mr. C. Richard Stewart
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Clerk of the South Carolina Court of Appeals
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