

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable L. Casey Manning, Circuit Court Judge

Case No. 2017-CP-40-00484

Appellate Case No. 2017-001638

RECEIVED
SEP 26 2017
SC Court of Appeals

South Carolina Public Interest Foundation and Edward
D. Sloan, Jr., individually, and on behalf of all others
similarly situated, Appellants,

v.

The South Carolina House of Representatives; the South
Carolina Senate; the Honorable James H. "Jay" Lucas,
as Speaker of the House; the Honorable Hugh K.
Leatherman, as President Pro Tempore of the South
Carolina Senate; and the State of South Carolina, Respondents.

Reply to the Return to the Motion to Dismiss the Appeal

Pursuant to Rule 240(f) of the South Carolina Appellate Court Rules,
Respondents the South Carolina Senate and the Honorable Hugh K. Leatherman, as
President Pro Tempore of the South Carolina Senate (collectively "the Senate"), reply
to the Appellants' return to the motion to dismiss the above-captioned appeal.
Appellants' return actually provides and supports additional grounds to dismiss this
appeal.

First, Appellants allege that "[o]n June 16, 2017, at 9:29 AM (sic), the court
reporter emailed the transcription to [counsel for Appellant]." See Return p. 2. The

Senate had no such knowledge of this fact, if true, because Appellants failed to notify this Court of receipt of the transcript as required by Rule 207(a)(1), SCACR. Thus, Appellants failed to comply with another requirement of our appellate court rules in this appeal. The failure to provide the court and the parties to the appeal with the notice of receipt of the transcript provides an additional ground for dismissal of the appeal.


Second, the Senate moved to dismiss the appeal on a second ground because Appellants failed to timely file their initial brief. In the return, Appellants do not dispute the service of the brief failed to comply with the deadline imposed by Rule 208(a)(1), SCACR. See Return p. 3. Appellants instead argue they misapprehended the plain language used the rules to calculate the briefing deadline. Id; see also Rule 208(a)(1), SCACR (“within thirty (30) days **after serving** the notice of appeal, appellant shall serve one copy of his brief on all parties to the appeal, and file with the clerk of the appellate court one copy of the brief with proof of service”) (emphasis added). Appellants admit that they missed this deadline.

Thus, Appellants failed to comply with our appellate court rules. This appeal should be dismissed. See Rule 260(a), SCACR (“Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk **shall** issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.”) (emphasis added).

{Signature Page Follows}

Respectfully submitted,

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Columbia, South Carolina

September 26, 2017

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PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins
Riley & Scarborough LLP, attorneys for The South Carolina Senate and the Honorable Hugh
K. Leatherman, as President Pro Tempore of the South Carolina Senate, do hereby certify that
I have served all counsel in this action with copies of the pleading(s) hereinbelow specified to
the following address(es):

Pleadings: **Reply to the Return to the Motion to Dismiss the Appeal**

Counsel Served:

U.S. Mail

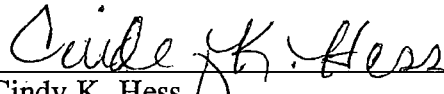
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September 26, 2017



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September 26, 2017

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SC Court of Appeals

Hand Delivered

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RE: South Carolina Public Interest Foundation, et al. v. The South Carolina
House of Representatives, et al.
Civil Action No. 2017-CP-40-00484
Appellate Case No. 2017-001638
Our File No. 49622/01500

Dear Ms. Kitchings:

Enclosed for filing in the above-referenced matter please find the original and seven copies of a Reply to the Return to the Motion to Dismiss the Appeal. Please return a clocked-in copy to us via our courier.

By copy of this letter to all counsel, I am hereby serving them with a copy of this document.

Very truly yours,

Michael J. Anzelmo

MJA:ckh
Enclosures

The Honorable Jenny Abbott Kitchings
September 26, 2017
Page 2

cc: James G. Carpenter, Esquire
Jennifer J. Miller, Esquire
L. Warren Clayton, III, Esquire
Paul D. Harrill, Esquire
Brad S. Wright, Esquire
J. Emory Smith, Esquire