

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

Appellate Case No. 2017-001638

RECEIVED
SEP 27 2017
SC Court of Appeals

South Carolina Public Interest Foundation and
Edward S. 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 South Carolina
House of Representatives, The Honorable Hugh K. Leatherman,
in his capacity as President Pro Tempore of the South Carolina Senate,
and, The State of South Carolina, Respondents.

REPLY TO RESPONSE TO MOTION TO DISMISS APPEAL

Pursuant to Rule 240(f) SCACR, Respondents The South Carolina House of Representatives and The Honorable James H. “Jay” Lucas, as Speaker of the South Carolina House of Representatives (the “House Respondents”) respectfully reply to Appellants’ Response to Motions to Dismiss Appeal served on September 20, 2017.

House Respondents moved to dismiss this appeal because Appellants failed to comply with Rule 207 SCACR. Appellants impliedly argue that compliance with Rule 207 would be “senseless” because Appellant ordered the transcript immediately after the hearing at the circuit

court. Appellants further state that the “Senate Respondents” received a copy of the transcript after the circuit court hearing and that “House Respondents . . . declined to request a transcript.” Appellants apparently argue that because appellant and the “Senate Respondents” obtained copies of the transcript, Appellants are excused from any compliance with Rule 207 SCACR. However, the requirements of Rule 207 are not permissive.

Rule 207 states that within ten (10) days of filing the notice of appeal, appellant “shall” make arrangements “in writing with the court reporter for furnishing the transcript. . . . Unless the parties otherwise agree in writing, appellant must order a transcript of the entire proceedings below.” Appellants complied with neither of these two options mandated by Rule 207 SCACR.

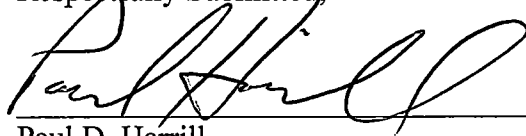
House Respondents do not have a copy of the transcript from the proceedings below. House Respondents have not requested a copy of the transcript nor have they “declined” to request the transcript as asserted by Appellants. Prior to the Appellants’ response to the motion, House Respondents were not aware that Appellants had ordered the transcript and had obtained a copy. House Respondents have not been given the opportunity to request the transcript in this appeal and have not been asked to consent to the waiver of Appellants’ obligation to order the transcript.

Rather than blazing their own trail and failing to comply with Rule 207 at all, perhaps (within 10 days of filing their notice of appeal) Appellants could have notified House Respondents that they had already obtained the transcript, provided House Respondents with the court reporter’s information, and requested that House Respondents consent to waiving any obligation to order the transcript under Rule 207. Appellants did not do that. Appellants jumped the gun and filed their initial brief without ordering the transcript or disclosing to House Respondents that they had already received the transcript.

Appellant served its Initial Brief and Designation of Matter to be Included in the Record on Appeal on August 25, 2017, without ordering the transcript of the proceedings below and without obtaining the consent of the House Respondents to dispense with the requirement of ordering the transcript of the proceedings below.

Therefore, it is respectfully submitted that this appeal should be dismissed.

Respectfully Submitted,



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September 27, 2017
Columbia, SC

ATTORNEYS FOR RESPONDENTS
THE SOUTH CAROLINA HOUSE OF
REPRESENTATIVES AND THE HONORABLE
JAMES H. "JAY" LUCAS, AS SPEAKER OF THE
SOUTH CAROLINA HOUSE OF
REPRESENTATIVES

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in his capacity as President Pro Tempore of the South Carolina Senate,
and, The State of South Carolina, Respondents.

CERTIFICATE OF SERVICE

I, Ann Shuler, an employee of the McNair Law Firm, certify that I have served the *Reply to Response to Motion to Dismiss* by depositing a copy in the United States Mail, postage prepaid, on September 27, 2017, addressed to all attorneys of record, as follows:

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September 27, 2017

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Via Courier

Honorable Jenny Abbott Kitchings
Clerk of Court
S.C. Court of Appeals
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SEP 27 2017

SC Court of Appeals

Re: South Carolina Public Interest Foundation and Edward S. Sloan, Jr,
individually, and on behalf of all other similarly situated -v- The South
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Honorable James H. "Jay" Lucas, as Speaker of the South Carolina
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capacity as President Pro Tempore of the South Carolina Senate, and,
The State of South Carolina
Appellate Case No. 2017-001638

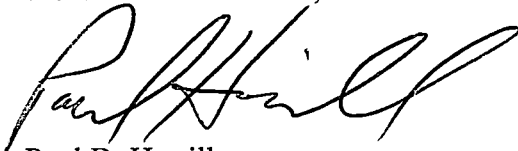
Dear Ms. Kitchings:

Enclosed for filing, please find the original and seven copies of Respondents The
South Carolina House of Representatives and the Honorable James H. "Jay"
Lucas, as speaker of the South Carolina House of Representatives' Reply to
Response to Motion to Dismiss Appeal. By copy of this letter, we are serving a
copy on the reply on counsel for the Appellants. Please file the motion in your
office and return the file-stamped extra copy to me via our courier.

Thank you for your assistance in this matter.

Sincerely,

McNAIR LAW FIRM, P.A.



Paul D. Harrill

PDH:as
Enclosures

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Honorable Jenny Abbott Kitchings
September 27, 2017
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cc: James G. Carpenter Esquire
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