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STATE OF SOUTH CAROLINA  
In the Court of Appeals

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DEC 29 2017

SC Court of Appeals

Appeal from Charleston County  
Court of Common Pleas

The Honorable Brooks P. Goldsmith, Circuit Judge

Appellate Case No. 2017-001775

Mikell M. Henderson..... Appellant,

v.

Mikell R. Scarborough, individually and as Personal Representative of the Estate of  
Mary Ross Hanahan, and Joseph Ross Henderson.....Defendants

Of whom Mikell R. Scarborough, individually and as Personal Representative of the  
Estate of Mary Ross Hanahan, is the .....Respondent.

**PETITION AND MEMORANDUM IN SUPPORT OF REINSTATING APPEAL**

Pursuant to Rule 260(a), South Carolina Rules of Appellate Procedure,  
Appellant Mikell M. Henderson petitions the Court to reinstate his above-captioned  
appeal. The grounds of this Petition are as follows:

1. By letter dated November 21, 2017, this Court requested an update regarding the transcript of hearing in this matter, which was timely ordered on September 5, 2017.
2. Appellant's counsel belatedly received the Court's letter on December 8, 2017, as a result of it having been apparently placed in the wrong Post Office Box (see Exhibit A).

3. Appellant wrote to the Court reporter on December 12, 2017 inquiring about the transcript and the fact that the check to cover the cost thereof had not cleared in more than 60 days. The Court Reporter promptly responded, indicating that she had not received the check and providing a copy of the transcript electronically on the same date. (See Exhibit B)
4. Appellant that day drafted and signed a letter to the Court, advising of the delayed receipt of the Court's letter (See Exhibit C), but was in the midst of preparation and meetings leading up to the continuation of a multi-day trial on December 14, 2017.
5. Upon receipt of the Court's Order of dismissal, the undersigned located the envelopes containing the original and copies of said letter, which had been inadvertently placed in the file related to his trial and not mailed.
6. The undersigned is a sole practitioner with no staff and is personally responsible for couriering the mail to the United States Post Office each day.
7. Reinstatement of this appeal will not prejudice Respondent, as the timely appeal of the underlying Orders has been pending before this Court since August 2017.
8. Dismissal of this appeal based on an oversight could, however, prejudice Appellant by depriving him of appellate review of Orders finally deciding important issues which have been litigated since 2015.
9. Additionally, the portions of this action which were not decided by the appealed Orders remain pending before the Charleston County Circuit

Court and are currently expected to be tried on or about January 22, 2017.

For the reasons set forth above, Appellant respectfully asks that this Court reinstate the appeal and allow it to proceed to substantive decision.

Respectfully submitted,



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Post Office Box 7995  
Columbia, South Carolina 29202-7995  
(803) 779-1770  
adam@silvernailfirm.com

*Counsel for Appellant*

December 29, 2017

Other Counsel of Record:

Shirrese B. Brockington, Esquire  
4 Carriage Lane, Suite 304  
Charleston, South Carolina 29407

*Counsel for Respondent Mikell R. Scarborough, Individually*

Joseph S. Mendelsohn, Esquire  
Post Office Box 250  
Charleston, South Carolina 29402

*Counsel for Respondent Mikell R. Scarborough, as  
Personal Representative of the Estate of Mary Ross Hanahan*

# EXHIBIT A



**South Carolina Court of Appeals**

JENNY ABBOTT KITCHINGS, CLERK  
POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211

RECEIVED  
NOV 21 11 21 AM '17  
FBI

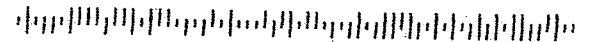
Master  
11/21/2017  
DEPOSITAGE

FIRST-CLASS MAIL  
\$00.46

ZIP 29201  
01101260282

ADAM TREMAINE SILVERNAIL  
PO BOX 7995  
COLUMBIA, SC 29202

29202-799595



# EXHIBIT B



Adam Silvernail &lt;adam@silvernaillawfirm.com&gt;

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**Henderson vs. Scarborough 5/18/17 transcript**

3 messages

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**Andersen, Karen** <kandersen@sccourts.org>

Tue, Sep 26, 2017 at 3:29 PM

To: "adam@silvernaillawfirm.com" &lt;adam@silvernaillawfirm.com&gt;

Hello. I received your request for the above-named transcript. It is 66 pages. The copy rate is .75 per page. Upon the payment to me of \$49.50, I will gladly e-mail you a copy of the transcript. If a hard copy is required, please add \$2.50 for postage. Thank you!

Karen V. Andersen, RMR, CRR  
2496 Kings Gate Lane  
Mt. Pleasant, SC 29466

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

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**Adam Silvernail** <adam@silvernaillawfirm.com>

Tue, Dec 12, 2017 at 10:19 AM

To: "Andersen, Karen" &lt;kandersen@sccourts.org&gt;

Dear Ms. Andersen:

I received a letter from the Court of Appeals (belatedly received by me after being delivered to another PO Box), which requests an update on the transcript. In realizing it had not yet arrived, I also see that the check mailed to you on October 1 has not yet cleared. Is there an issue with this? If the check was not received or was lost, I will gladly overnight another. I appreciate your response, so I can advise the Court of Appeals and parties.

Adam Silvernail  
[Quoted text hidden]

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**Law Office of Adam T. Silvernail, LLC**  
1905 Marion Street (29201)  
Post Office Box 7995  
Columbia, South Carolina 29202-7995  
803/779-1770

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**Andersen, Karen** <kandersen@sccourts.org>

Tue, Dec 12, 2017 at 11:42 AM

To: Adam Silvernail &lt;adam@silvernaillawfirm.com&gt;

?I did not receive the check. Attached is the transcript. Please resend payment. Thank you!

Karen V. Andersen, RMR, CRR  
2496 Kings Gate Lane  
Mt. Pleasant, SC 29466

From: Adam Silvernail <adam@silvernaillawfirm.com>  
Sent: Tuesday, December 12, 2017 10:19 AM  
To: Andersen, Karen  
Subject: Re: Henderson vs. Scarborough 5/18/17 transcript

Dear Ms. Andersen:

I received a letter from the Court of Appeals (belatedly received by me after being delivered to another PO Box), which requests an update on the transcript. In realizing it had not yet arrived, I also see that the check mailed to you on October 1 has not yet cleared. Is there an issue with this? If the check was not received or was lost, I will gladly overnight another. I appreciate your response, so I can advise the Court of Appeals and parties.

Adam Silvernail

[Quoted text hidden]



**5.18.17 HENDERSON VS. SCARBOROUGH.pdf**  
355K

# EXHIBIT C

Law Office of  
**ADAM T. SILVERNAIL**  
LLC

December 12, 2017

*Via U.S. Mail:*

The Honorable Jennie Abbott Kitchings  
South Carolina Court of Appeals  
Post Office Box 11629

**RECEIVED**  
DEC 29 2017  
SC Court of Appeals

Re: *Henderson v. Scarborough, et al*  
Appellate Case No. 2017-001775

Dear Ms. Kitchings:

I write in response to your November 21, 2017 letter requesting an update on the transcript in this matter. That letter appears to have been mistakenly placed in the wrong Post Office Box, which delayed my receipt of same until December 8, 2017.

I have contacted the Court Reporter, who indicates that she did not receive my check for the transcript. She has proceeded to forward me the transcript today, and I have dispatched a replacement check.

It would appear this makes our brief due on January 11, 2018; please advise if that is not the case or if any additional filing or information is needed by the Court.

Thank you for your attention to this matter. I wish the Court and staff very happy holidays.

Sincerely,



Adam T. Silvernail

Cc: Shirrese B. Brockington, Esquire  
Joseph S. Mendelsohn, Esquire

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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**RECEIVED**

DEC 29 2017

Appeal from Charleston County  
Court of Common Pleas

SC Court of Appeals

**The Honorable Brooks P. Goldsmith, Circuit Judge**

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**Case No. 2015-CP-10-6502**

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Mikell M. Henderson..... Appellant,

v.

Mikell R. Scarborough, individually and as Personal Representative of the Estate of  
Mary Ross Hanahan, and Joseph Ross Henderson.....Defendants

OF WHOM,

Mikell R. Scarborough, individually and as Personal Representative of the Estate of  
Mary Ross Hanahan, is.....Respondent.

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**Proof of Service**

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The undersigned hereby certifies that he has served a copy of the Petition  
and Memorandum in Support of Reinstating Appeal herein on counsel for the  
Respondent by depositing a copy of the same into the United States Mail, First-class  
postage prepaid, addressed as follows:

Shirrese B. Brockington, Esquire  
4 Carriage Lane, Suite 304  
Charleston, South Carolina 29407  
*Counsel for Respondent Mikell R. Scarborough, Individually*

Joseph S. Mendelsohn, Esquire  
Post Office Box 250  
Charleston, South Carolina 29402  
*Counsel for Respondent Mikell R. Scarborough, as  
Personal Representative of the Estate of Mary Ross Hanahan*



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adam@silvernaillawfirm.com

December 29, 2017

*Counsel for Appellant*