

85588

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

John S. Nicholson, Circuit Court Judge

Court of Appeals Case No. 2017-002481

RECEIVED
JAN 08 2018
SC Court of Appeals

AEP2, LLC f/k/a 2AM GROUP, LLC, Respondent

v.

BMW OF NORTH AMERICA, LLC, Appellant

**MOTION TO SUBMIT REQUEST FOR TRANSCRIPTS
OF LOWER COURT PROCEEDINGS**

Appellant BMW of North America, LLC (hereinafter "Appellant"), by and through its undersigned counsel, hereby moves this Court, pursuant to Rule 207, SCACR, to allow Appellant to request transcripts of the proceedings of the above-referenced case before the Honorable John S. Nicholson and the Honorable John C. Hayes, Circuit Court Judges, Charleston County, Civil Action No.: 2017-10-00644. In support therefore, Defendant states as follows:

1. On June 13, 2017, Judge Nicholson heard oral argument on the Appellant's Motion to Set Aside Default Judgment.
2. Appellant previously requested and obtained a copy of the certified transcript in the June 13, 2017 hearing.

3. A copy of the correspondence with the court reporter for the hearing is attached to the letter to the Clerk of the Court of Appeals accompanying this motion as **Exhibit A**.

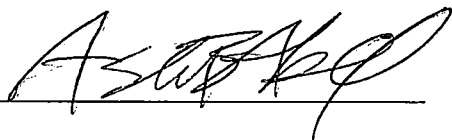
4. On October 12, 2017, Judge John C. Hayes heard oral argument on the Respondent's Motion for a Damages Hearing.

5. Appellant previously requested a copy of the certified transcript in the October 12, 2017 hearing.

6. A copy of the correspondence with the court reporter requesting a copy of the transcript for the hearing is attached to the letter to the Clerk of the Court of Appeals accompanying this motion as **Exhibit B**.

7. Appellant has provided a letter to the Clerk of Court for the Court of Appeals detailing our efforts to request a copy of the transcripts and respectfully requests that this Court allow Appellant to perfect its request and obtain copies of the entire record from the proceedings of the Circuit Court for purposes of the instant appeal.

January 5, 2018

s/ 

Ashley B. Abel (S.C. Bar No. 10097)

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Other Counsel of Record:

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Attorney for Respondent

John P. Freeman
2329 Wilmot Avenue
Columbia, SC 29205-3164
Tel: 803-254-4667
jfreemanusc@gmail.com
Attorney for Respondent

EXHIBIT A

Okeke, Cashida N. (Greenville)

From: Allwurden, Kathleen M. (Greenville)
Sent: Wednesday, January 03, 2018 2:36 PM
To: Okeke, Cashida N. (Greenville)
Subject: FW: AEP2 v BMW - Transcript & Invoice for Hearing June 13, 2017
Attachments: 2017-0613 AEP2 v BMW.pdf; Invoice 2017-0613 AEP2 v BMW.xlsx

Here is the date we received that transcript.

Kate M. Allwurden

Paralegal & Legal Secretary to Ashley B. Abel, Robert M. Wood

Jackson Lewis P.C.

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-----Original Message-----

From: Norton, Phyllis H. [mailto:pnorton@sccourts.org]
Sent: Thursday, July 06, 2017 9:24 AM
To: Abel, Ashley B. (Greenville) <AbelA@jacksonlewis.com>; Allwurden, Kathleen M. (Greenville) <allwurdk@jacksonlewis.com>
Subject: AEP2 v BMW - Transcript & Invoice for Hearing June 13, 2017

Attached is the transcript you requested and an invoice for processing. If you have any questions, please let me know. Thank you.

Phyllis

Phyllis Norton, CVR-Master
Court Reporter, 9th Circuit
636 Long Point Road, Unit G, #74
Mt. Pleasant, SC 29464

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***EXHIBIT B***

## **Okeke, Cashida N. (Greenville)**

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**From:** Allwurden, Kathleen M. (Greenville)  
**Sent:** Wednesday, January 03, 2018 4:26 PM  
**To:** mdempsey@sccourts.org  
**Cc:** Abel, Ashley B. (Greenville); Okeke, Cashida N. (Greenville)  
**Subject:** AEP2 / BMW Manufacturing - Case 2017-10-644

On October 12, 2017 you are listed as the court reporter for a motion hearing before Judge John Hayes in Charleston, SC regarding the above-referenced matter. This matter has been appealed and we need a copy of this hearing reported by you. Please let me know as soon as possible your timeline for the transcript and if you require a deposit.

Thank you for your kind attention to this matter.

Kate

**Kate M. Allwurden**

Paralegal & Legal Secretary to Ashley B. Abel, Robert M. Wood

**Jackson Lewis P.C.**

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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v.

BMW OF NORTH AMERICA, LLC, Appellant

PROOF OF SERVICE

I certify that I have served the Motion to Submit Request for Transcripts of Lower Court Proceedings on the above-referenced Respondent by depositing a copy of it in the United States Mail, postage prepaid, on January 5, 2018, addressed to its attorneys of record as follows:

ATTORNEYS FOR RESPONDENT

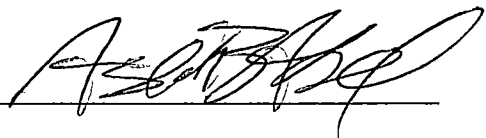
Thomas H. Pope, III, Esq.
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CO-COUNSEL FOR APPELLANT

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January 5, 2018

s/ 

Ashley B. Abel (S.C. Bar No. 10097)

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Attorneys for Appellant



Attorneys at Law

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BOSTON, MA KANSAS CITY REGION OMAHA, NE SAN DIEGO, CA
CHICAGO, IL LAS VEGAS, NV ORANGE COUNTY, CA SAN FRANCISCO, CA
CINCINNATI, OH LONG ISLAND, NY ORLANDO, FL SAN JUAN, PR
CLEVELAND, OH LOS ANGELES, CA PHILADELPHIA, PA SEATTLE, WA
DALLAS, TX MADISON, WI PHOENIX, AZ ST. LOUIS, MO
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*through an affiliation with Jackson Lewis P.C., a Law Corporation

MY DIRECT DIAL IS: (864) 672-8036
MY EMAIL ADDRESS IS: ABELA@JACKSONLEWIS.COM

January 5, 2018

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JAN 08 2018

SC Court of Appeals

VIA U.S. MAIL

The Honorable Jenny Abbott Kitchings
Clerk of Court, South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

Re: AEP2, LLC, Respondent, v. BMW of North
America, LLC, Appellant, Court of Appeals
Case No.: 2017-002481

Dear Madam Clerk:

Enclosed for filing is an original and six (6) copies of a Motion to Submit Request for
Transcripts of Lower Court Proceedings in the above-referenced matter. Also enclosed are the
following:

- 1. Letter to the Clerk of Court regarding request for transcripts of lower court proceedings;
2. Proof of Service of the Motion to Submit Request for Transcripts on Respondent; and
3. A check in the amount of Twenty-Five dollars (\$25.00) for the filing fee.

Please file the original and return the clocked copy of the Motion to Submit Request for
Transcripts to me in the enclosed self-addressed, stamped envelope.

Thank you for your assistance in this regard.

Very truly yours,

JACKSON LEWIS P.C.

Ashley B. Abel
Ashley B. Abel

Enclosures

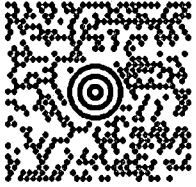
ASHLEY B. ABEL
8642327000
JACKSON LEWIS P.C.
15 SOUTH MAIN STREET
GREENVILLE SC 29601

0.0 LBS LTR

1 OF 1

SHIP TO:

HON. JENNY ABBOTT KITCHINGS
8037341890
CLERK OF COURT, SC COURT OF APPEALS
1015 SUMTER STREET
COLUMBIA SC 29201-3726



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UPS NEXT DAY AIR

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Reference No.1: 21326.394382.10525

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