

SCARLET B. MOORE

Attorney at Law

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April 25, 2018

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

RECEIVED
APR 30 2018
SC Court of Appeals

RE: Catherine Lyons v. Gregory Lyons
Appellate Case No. 2016-002549

Dear Madam Clerk,

Pursuant to your most recent correspondence, I am providing a detailed update regarding my attempts to comply with the provision in the Court's June 16, 2017 order, in addition to information regarding the parties' communications with the special referee and attempts to set this matter for a reconstruction hearing.

Subsequent to receipt of the Court's June 16, 2017, order, I drafted a letter to the Special Referee, and parties, which I have enclosed with this letter. (Correspondence "1") The letter, of June 26, 2017, was addressed to the Special Referee, and specifically requested guidance about the Court's June 16, 2017 order. I also offered to arrange for a conference call, or to take any further action that is required to comply with the directives of the Court of Appeals. I did not receive any response from the Special Referee regarding my letter.

Having no response from the Special Referee, I directed my assistant to contact his office – and on September 7, 2017, she was able to make contact with his office. She reports that she was informed that the Special Referee did not want to schedule a hearing, but rather wanted her to set-up a conference call with all parties. Subsequently, my assistant contacted the parties on September 8, and arranged for a conference call to be held on Friday, September 22, 2017. (See Correspondence "2", enclosed) The parties participated in the conference call, as directed by the Special Referee. I updated this Court regarding this conference call in a letter dated September 26, 2017, which is also enclosed. (Correspondence "3") Our instructions from the Special Referee were to collaborate regarding a possible stipulation of the transcript testimony, and to review the trial exhibits to determine whether a review of these materials would assist in the transcript reconstruction.

Subsequently, the Respondent was provided with a copy of the parts of the transcript that were capable of being prepared by the court reporter who was engaged for the sole purpose of creating a transcript. No court reporter appeared at the trial of this matter, and the testimony was recorded by a device. In addition, trial counsel contacted the Clerk of Court to review the exhibits, to determine whether the exhibits would assist the parties in reconstructing the record pursuant to amicable agreement. Trial counsel's assistant found that the exhibits were missing from the Clerk of Court. To date, the exhibits have not been located for this matter. I informed this Court regarding this development in letters dated December 10, 2017, as well as March 27, 2018. (Correspondence "4" and "5")

Subsequently, on March 18, 2018, I drafted an email to the parties, including the Special Referee, regarding the status of the transcript and the exhibits, which is enclosed. (Correspondence "6") I specifically asked the Special Referee to let the parties know how they can proceed at this point, as I anticipated I would need to update the Court of Appeals on this matter. I have received no response from the Special Referee regarding my email – which was over a month ago.

During the pendency of this action, the parties have never been independently contacted by the Special Referee regarding scheduling a reconstruction hearing regarding the transcript. The only instructions that we have received is that we need to try to stipulate to the contents of the transcript (which we have been unable to do), by reviewing the parts of the transcript that were preserved as well as reviewing the exhibits for guidance (which exhibits are not located at the Clerk of Court).

If the Court requires further information, please do not hesitate to contact me. With kind regards, I remain

Very Truly Yours,



Scarlet B. Moore, Esq.
Counsel for Appellant

SBM/s

Cc: Anne Marie Hempy
Wm. Thurmond Bishop
The Honorable Curtis G. Clark

Scarlet B. Moore

Attorney at Law

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APR 30 2018

SC Court of Appeals

June 26, 2017

The Honorable Curtis G. Clark
PO Box 3045
Greenwood, SC 29648-3045

**RE: Catherine Lyons v. Gregory Lyons
Appellate Case No. 2016-002549**

Dear Mr. Clark,

Enclosed please find a letter that the parties in the above titled matter have received from the S.C. Court of Appeals, directing me to contact you to schedule such hearings as you deem appropriate, for the limited purpose of attempting to reconstruct the record in this case. This matter has been appealed, however the matter has now been remanded to the McCormick County Court of Common Pleas. Unfortunately, the court reporter who was engaged by the Appellant to produce a transcript in this matter has been unable to create an accurate record due to the quality of the tape recordings.

I would be happy to arrange for a conference call to discuss this matter with the parties, further, or take any action that you deem necessary and appropriate to comply with the directive of the S.C. Court of Appeals. With kind regards, I remain

Very Truly Yours,

Scarlet B. Moore, Esq.
Counsel for Appellant

SBM/s

Cc: Anne Marie Hempy
Wm. Thurmond Bishop

scarlet28@msn.com

Correspondence "1"

Conference Call Scheduled - Friday, September 22, 2017

Susan Keith <susan@scarletmoorelaw.com>

Sun 9/10/2017, 4:50 PM

To:curtis@clarklawonline.com <curtis@clarklawonline.com>;sec@wctel.net <sec@wctel.net>;
ahempy@hiteandstone.com <ahempy@hiteandstone.com>;Scarlet Moore <scarlet28@msn.com>;

You should have received an invitation to a conference call to discuss next steps in the Appellate case of Catherine Lyons vs Gregory Lyons, appellate docket 2016-002549. The Court of Appeals has ordered this case remanded to the McCormick County Court of Common Pleas for the limited purpose of attempting to reconstruct the record. A motion filed by the appellant requesting leave of the court to file a Rule 60, SCRCP motion with the lower court due to the inability of the court reporter to transcribe the audio records of the trial, was denied. This conference call is to determine the next steps in this case.

The details of the call are as follows:

Date: Friday, September 22, 2017**Time:** 11 AM (call is scheduled for one hour)**Participants:** Judge Curtis G. Clark

Attorney Scarlet Moore, counsel for Appellant

Attorney Anne Marie Hempy, other counsel of record

Attorney William Thurmond Bishop, counsel for Respondent

Call in Number: (712) 451-0800**Access Code:** 707935

Please contact our office if you have any questions. Thank you!!!

Susan KeithAdministrative Assistant to
Scarlet B. Moore
Attorney at Law
864-214-5805

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Correspondence "2"

SCARLET B. MOORE

Attorney at Law

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September 26, 2017

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

RECEIVED

APR 30 2018

SC Court of Appeals

RE: Catherine Lyons v. Gregory Lyons
Appellate Case No. 2016-002549

Dear Madam Clerk,

Pursuant to your most recent correspondence, I am providing an update to the Court of Appeals regarding a status of the above titled matter. On Friday, September 22, 2017, the parties had a phone conference call with the Master in Equity to discuss the status of the transcript. The result of the conference was that the Appellant would provide the partial transcript to the Respondent, as well as the exhibits from the trial, for the purpose of trying to re-construct the record. This will take place within the next several weeks, as trial counsel is expecting twins and will likely be out on maternity leave soon. Once that information is received by Respondent, the parties will determine, with the Master in Equity, whether the transcript can be reconstructed under the circumstances of this case. If the parties determine that the transcript cannot be reconstructed, we will notify the Master in Equity for a decision regarding further proceedings.

If the Court requires further information, please do not hesitate to contact me.
With kind regards, I remain

Very Truly Yours,

Scarlet B. Moore, Esq.
Counsel for Appellant

SBM/s

Cc: Anne Marie Hempy
Wm. Thurmond Bishop

scarlet28@msn.com

Correspondence "3"

SCARLET B. MOORE

Attorney at Law

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December 10, 2017

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

RE: Catherine Lyons v. Gregory Lyons
Appellate Case No. 2016-002549

Dear Madam Clerk,

Pursuant to your most recent correspondence, I am providing an update to the Court of Appeals regarding the status of the above titled matter. According to the research of trial counsel for the Appellant, the trial exhibits are not located in the clerk's file, and to date have not been located. Further, the parties have not been able to reach an agreement regarding the issue of reconstructing the record. Lastly, the Appellant has a settlement proposal for the Respondent, however to date no settlement has been reached in this matter. It is the Appellant's position that if the parties cannot reach an amicable agreement, there is no other option than for the master-in-equity to hear this matter de novo.

If the Court requires further information, please do not hesitate to contact me.
With kind regards, I remain

Very Truly Yours,

Scarlet B. Moore, Esq.
Counsel for Appellant

SBM/s

Cc: Anne Marie Hempy
Wm. Thurmond Bishop

scarlet28@msn.com

Correspondence "4"

SCARLET B. MOORE

Attorney at Law

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March 27, 2018

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

**RE: Catherine Lyons v. Gregory Lyons
Appellate Case No. 2016-002549**

Dear Madam Clerk,

Pursuant to your most recent correspondence, I am providing an update to the Court of Appeals regarding the status of the above titled matter. The parties have been unable to reach an amicable settlement in this matter. As I informed the Court in my last letter, the trial exhibits are not located in the clerk's file, and to date have not been located. Further, the parties have not been able to reach an agreement regarding the issue of reconstructing the record. Based on the status of this case, the Appellant's position is that there is no other option than for the master-in-equity to hear this matter de novo.

If the Court requires further information, please do not hesitate to contact me.
With kind regards, I remain

Very Truly Yours,

Scarlet B. Moore, Esq.
Counsel for Appellant

SBM/s

Cc: Anne Marie Hempy
Wm. Thurmond Bishop

scarlet28@msn.com

Correspondence "5"

Status of Lyons Appeal

Scarlet Moore

Sun 3/18/2018, 9:00 AM

To: curtis@clarklawonline.com <curtis@clarklawonline.com>; sec@wctel.net <sec@wctel.net>;
ahempy@hiteandstone.com <ahempy@hiteandstone.com>;

Hello everyone - just wanted to give the parties, and Judge Clark, a status on the Lyons appeal. There are no exhibits at the Clerk of Court - the clerk cannot find them. Given the fact that there are no exhibits that can be retrieved, and the fact that the transcript cannot be retrieved, there is no other option than for this matter to proceed to a new trial. The parties have attempted to settle this case to no avail. Further - the parties have been unable to stipulate to the transcript and trial evidence.

Judge Clark - please email us and let us know how we can proceed at this point. I need to update the Court of Appeals on this matter.

Please let me know if anyone has questions or comments regarding this matter. Thank you - I look forward to hearing from you.

From: Susan Keith <susan@scarletmoorelaw.com>

Sent: Sunday, September 10, 2017 4:50 PM

To: curtis@clarklawonline.com; sec@wctel.net; ahempy@hiteandstone.com; Scarlet Moore

Subject: Conference Call Scheduled - Friday, September 22, 2017

You should have received an invitation to a conference call to discuss next steps in the Appellate case of Catherine Lyons vs Gregory Lyons, appellate docket 2016-002549. The Court of Appeals has ordered this case remanded to the McCormick County Court of Common Pleas for the limited purpose of attempting to reconstruct the record. A motion filed by the appellant requesting leave of the court to file a Rule 60, SCRCP motion with the lower court due to the inability of the court reporter to transcribe the audio records of the trial, was denied. This conference call is to determine the next steps in this case.

The details of the call are as follows:

Date: Friday, September 22, 2017

Time: 11 AM (call is scheduled for one hour)

Participants: Judge Curtis G. Clark

Attorney Scarlet Moore, counsel for Appellant

Attorney Anne Marie Hempy, other counsel of record

Attorney William Thurmond Bishop, counsel for Respondent

Call in Number: (712) 451-0800

Access Code: 707935

Please contact our office if you have any questions. Thank you!!!

--
Susan Keith

Administrative Assistant to

Scarlet B. Moore

Attorney at Law

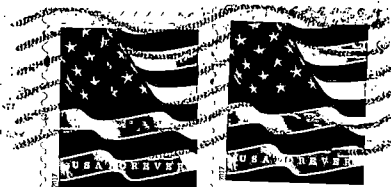
864-214-5805

Correspondence "6"

Scarlet B. Moore
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Jenny Abbott Kitchings

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Columbia, S.C. 29211

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SC Court of Appeals

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