

IN THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

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APPEAL FROM HORRY COUNTY  
Court Of Common Pleas

Larry B. Hyman, Circuit Court Judge

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Case No.: 2015-CP-26-05633  
Appellate Case No.: 2018-001497

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**RECEIVED**  
SEP 26 2018  
SC Court of Appeals

Bobby Foster, ..... Appellant,

vs.

Julian Neil Armstrong, ..... Respondent.

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**RESPONDENT'S RESPONSE TO APPELLANT'S MOTION FOR LEAVE  
TO ORDER TRANSCRIPT OUTSIDE OF DEADLINE**

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The Respondent objects to the Appellant's Motion to Order Transcripts outside the deadline specified by Rule 207.

Rule 207(b)(1) requires that the Appellant order the transcript within ten (10) days after the date of service of the Notice of Intent to Appeal. The Notice of Intent to Appeal was filed and served in the above-captioned action on August 13, 2018. The Appellant did not order the transcripts until September 6, 2018. The Appellant's Motion asking for leave to Order the Transcript Outside the Deadline does not specify any reason why the transcripts were not timely ordered. Therefore, Appellant's Motion should be denied.

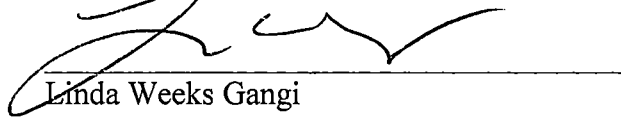
The Appellant filed another Notice of Intent to Appeal in this same action on April 3, 2018 (Exhibit A, pp 4-5). This Court sent a letter to Appellant's counsel on July 17, 2018 asking that Appellant's counsel supply an update with regard to the transcripts. (Exhibit B, pp 7-8). Appellant's counsel never responded (Exhibit C, p. 10) and the appeal was dismissed. (Exhibit D, p. 12).

The Appellant has failed to timely perfect the Appeal and same should be dismissed.

Conway, South Carolina

September 24, 2018

THOMPSON & HENRY, P.A.



Linda Weeks Gangi  
Attorney for the Respondent  
PO Box 1740  
Conway, SC 29528-1740  
(843) 248-5741 (p)  
[lgangi@thompsonlaw.com](mailto:lgangi@thompsonlaw.com)  
SC Bar No.: 2365

# EXHIBIT A

**NOTICE OF APPEAL IN A CIVIL CASE**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM HORRY COUNTY  
Court of Common Pleas

Larry B. Hyman, Jr., Circuit Court Judge

Case No. 2015-CP-26-05633

Bobby Foster,

Appellant,

v.

Julian Neil Armstrong,

Respondent.

**NOTICE OF APPEAL**

Plaintiff/Appellant, Bobby Foster, appeals the March 27, 2018, Order of The Honorable Larry B. Hyman, Jr., denying Plaintiff/Appellant's Motion to Reconsider the April 24, 2017, Order of The Honorable Larry B. Hyman, Jr., Granting Defendant/Respondent, Julian Neil Armstrong's, Motion for Summary Judgment. Plaintiff/Appellant received written notice of said Order on March 27, 2018.

[signature block on following page]

April 3, 2018

s/ Benjamin W. Lee  
Benjamin W. Lee, Esquire  
S.C. Bar No.: 103213  
Eric M. Poulin, Esquire  
S.C. Bar No.: 100209  
Roy T. Willey, IV, Esquire  
S.C. Bar No.: 101010  
Anastopoulo Law Firm, LLC  
32 Ann Street  
Charleston, S.C. 29403  
(843) 614-8888

Attorneys for Appellant

Other Counsel of Record:  
Linda Weeks Gangi, Esquire  
Thompson & Henry, P.A.  
P.O. Box 1740  
Conway, SC 29528  
(843) 248-5741

Attorneys for Respondent

# **EXHIBIT B**



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

July 17, 2018

Mr. Benjamin Wayne Lee, Esquire  
32 Ann Street  
Charleston SC 29403

Re: Bobby Foster v. Julian Armstrong  
Appellate Case No. 2018-000706

Dear Counsel:

Our records indicate that the transcript in the above matter should have been delivered. As of today's date, we have not received any information indicating that the court reporter has been granted an extension. Further, you have not notified us that you have failed to receive the transcript, nor have we received your initial brief.

If you have not yet received the transcript, Rule 207 of the South Carolina Appellate Court Rules requires you to contact the Office of Court Administration. The address for Court Administration is as follows:

South Carolina Office of Court Administration  
1220 Senate Street, Suite 201  
Columbia, SC 29201

Be sure to copy the Court and opposing counsel with all correspondence concerning the transcript.

Please advise the Court of the status of the transcript within ten (10) days of the date of this letter, or your appeal will be dismissed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Eric Marc Poulin, Esquire  
Roy T. Willey, IV, Esquire  
Linda Weeks Gangi, Esquire

# EXHIBIT C

# The South Carolina Court of Appeals

Bobby Foster, Appellant,

v.

Julian Neil Armstrong, Respondent.

Appellate Case No. 2018-000706

The Honorable Larry B. Hyman, Jr.  
Horry County  
Trial Court Case No. 2015CP2605633

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## ORDER

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Appellant has failed to provide a status update of the transcript, as required by Rule 207 of the South Carolina Appellate Court Rules, and letter of this Court dated July 17, 2018. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY *V. Claire Allen, Deputy*  
CLERK

Columbia, South Carolina

**FILED**

*August 2, 2018*

cc:  
Benjamin Wayne Lee, Esquire  
Eric Marc Poulin, Esquire  
Roy T. Willey, IV, Esquire  
Linda Weeks Gangi, Esquire

# EXHIBIT D



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
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[www.sccourts.org](http://www.sccourts.org)

August 20, 2018

The Honorable Renee Elvis  
PO Box 677  
Conway SC 29528-0677

## REMITTITUR

Re: Bobby Foster v. Julian Armstrong  
Lower Court Case No. 2015CP2605633  
Appellate Case No. 2018-000706

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed. Our records reflect a notice of appeal filed August 13, 2018, with the same lower court case number, remains pending at the Court of Appeals under appellate case number 2018-001497.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jenny Abbott Kitchings".  
CLERK

Enclosure

cc: Benjamin Wayne Lee, Esquire  
Eric Marc Poulin, Esquire  
Roy T. Willey, IV, Esquire  
Linda Weeks Gangi, Esquire  
Lane Douglas Jefferies, Esquire

IN THE STATE OF SOUTH CAROLINA  
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APPEAL FROM Horry COUNTY  
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Case No.: 2015-CP-26-05633  
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Bobby Foster, ..... Appellant,

vs.

Julian Neil Armstrong, ..... Respondent.

**CERTIFICATE OF SERVICE**

I, Neicey Smith, certify that I have served the **Respondent's Response to Appellant's Motion for Leave to Order Transcript Outside of Deadline** on Bobby Foster by depositing a copy of it in the United States Mail, postage prepaid, as well as via email on September 24, 2018, addressed to their attorneys of record as follows:

teamjefferies@googlegroups.com  
lane@akimlawfirm.com  
Lane D. Jefferies, Esquire  
Anastopoulo Law Firm, LLC  
32 Ann Street  
Charleston, SC 29403  
Attorney for the Appellant

*Neicey Smith*

Neicey Smith

Legal Assistant to

Linda Weeks Gangi, Esquire

THOMPSON & HENRY, P.A.

PO Box 1740

Conway, SC 29528-1740

[neicey@thompsonlaw.com](mailto:neicey@thompsonlaw.com)

**THOMPSON & HENRY, P.A.**  
ATTORNEYS AT LAW  
1300 SECOND AVENUE, THIRD FLOOR (29526)  
POST OFFICE BOX 1740  
CONWAY, SOUTH CAROLINA 29528

LINDA WEEKS GANGI  
[lgangi@thompsonlaw.com](mailto:lgangi@thompsonlaw.com)

TELEPHONE  
(843) 248-5741  
FAX  
(843) 248-5112

September 24, 2018

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
PO Box 11629  
Columbia, SC 29211

RE: *Bobby Foster vs. Julian Neil Armstrong*  
Appellate Case No.: 2018-000706  
Civil Action No.: 2015-CP-26-5633  
Date of Loss: April 8, 2013  
Claim No.: 40-2K34-502  
SF Insured: Deloria G. Armstrong

**RECEIVED**

SEP 26 2018

SC Court of Appeals

Dear Ms. Kitchings:

Please find enclosed herewith the original and six (6) copies of the Respondent's Response to Appellant's Motion for Leave to Order Transcript Outside of Deadline in the above matter along with a Certificate of Service for same. By copy of this letter, I am serving Appellant's counsel with copies of same.

If you have any questions with regard to this, please do not hesitate to contact me.

With kindest personal regards, I remain

Yours very truly,

THOMPSON & HENRY, P.A.



Linda Weeks Gangi

LWG/ns

Enclosures

cc: Lane D. Jefferies, Esquire  
SF 5612.06

THOMPSON & HENRY, P.A.  
ATTORNEYS AT LAW  
Post Office Box 1740  
CONWAY, SOUTH CAROLINA 29528



**RECEIVED**

SEP 26 2018

**SC Court of Appeals**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
PO Box 11629  
Columbia, SC 29211