

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM OCONEE COUNTY  
In the Court of Common Pleas

J. Cordell Maddox, Circuit Judge

Case No. 2019-CP-37-00320  
Appellate Case No. 2019-001696

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**RECEIVED**

OCT 22 2019

SC Court of Appeals

Sommer Smith,

Respondent,

v.

Alma Stone,

Appellant.

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APPELLANT'S MOTION TO ORDER TRANSCRIPT  
OUT OF TIME

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Appellant, Alma Stone, by and through her undersigned attorneys and pursuant to Rule 207, South Carolina Appellate Court Rules, hereby moves this Court for the entry of an Order allowing her to Order the Transcript of an August 26, 2019 hearing out of time. As grounds therefor, Appellant would show unto the Court the following:

1. Appellant seeks review of an Order of the Circuit Court dated October 2, 2019 denying her Motion to Dismiss Appeal and granting Respondent an extension of time to comply with the appellate procedural requirements in *S.C. Code Ann.* § 62-1-308. Appellant served

Respondent, through her attorney, with a copy of the Notice of Appeal of the October 2, 2019 Order on October 3, 2019 by U.S. Mail.

2. Appellant predicates her appeal on the record of filings in the court below in order to demonstrate that the Circuit Court no longer has jurisdiction to entertain Respondent's appeal to the Circuit Court from the Probate Court. Appellant, in good faith, did not believe a transcript of the August 26, 2019 hearing, wherein the Circuit Court heard argument on the Motion to Dismiss Appeal and Motion to Extend Time, was necessary for review by this Court.
3. In accordance with the language contained in Rule 208(a)(1), SCACR, Appellant concluded that her Initial Brief was due within thirty (30) days of serving the Notice of Appeal because she believed no transcript of the August 26 hearing was necessary to decide the extant issues. Thus, Appellant did not order the transcript within ten (10) days of October 3, 2019 in accordance with Rule 207(a)(1). When Appellant filed her Initial Brief with the Clerk of the Court of Appeals, the undersigned was informed that a transcript of the hearing is required.
4. On October 21, 2019, Appellant, via Transcript Request Form emailed to the court reporter, requested an expedited transcript of the subject hearing. (Exhibit "A.")

WHEREFORE, Appellant, Alma Stone, respectfully requests this Court to enter an Order granting her Motion for Leave to Order the Transcript of the August 26, 2019 hearing out of time for the reasons set forth above.



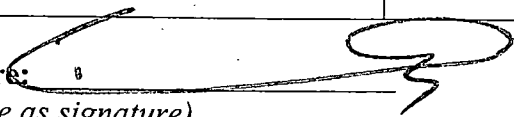
Richard Hunt McDuff, Esq.  
S.C. Bar No. 76242  
Merrell, Jahn & McDuff, P.A.  
119-B Professional Park Drive  
Seneca, South Carolina 29678  
Tel: (864) 882-2466  
Attorney for Appellant

Dated this 21<sup>st</sup> day of October 2019  
Seneca, South Carolina

## Transcript Request Form

Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, the transcribed paper copy is the official record of court proceedings. You may request a transcript by completing this form and emailing it to the Court Reporter and to South Carolina Court Administration at [transcripts@sccourts.org](mailto:transcripts@sccourts.org). Click [here](#) for instructions on how to find the court reporter's email and mailing addresses. Once the court reporter receives your request, it will be processed pursuant to Rule 207 and 607 of the SCACR. Rule 607(h) governs the fees for transcripts, which are not provided for free or at reduced rates to **any** party. Please send by mail a money order or certified bank check to the court reporter in order to obtain the transcript. Some court reporters may accept personal checks. Please check with the court reporter to see if this option is available. Once your request is received, you will receive a copy of this form with the bottom portion completed. Please promptly submit your payment in order for the transcript to be provided. If you need to cancel the transcript request for any reason, you are responsible for paying for the pages of the transcript that have already been completed at the time of the cancellation.

Requestor's Information			
<b>Full Name</b> <u>Richard Hunt McDuff</u>	<b>Phone Number</b> <u>864-882-2466</u>	<b>Email Address</b> <u>Rick_McDuff@att.net</u>	
<b>Mailing Address</b> <u>119-B Professional Park Drive</u>	<b>Seneca</b>	<b>SC</b>	<b>29678</b>
Transcript Information			
<b>Docket Number</b> <u>2019CP3700320</u>	<b>Case Caption</b> (i.e. State v. John Doe or Smith v. Smith) <u>Sommer Smith v. Alma Stone</u>		
<b>August 26, 2019</b>	<b>Circuit</b> <input checked="" type="checkbox"/>	<b>County</b> <u>Oconee</u>	
	<b>Family</b> <input type="checkbox"/>	<b>Expedited</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
<b>Presiding Judge</b> <u>J. Cordell Maddox</u>		<div style="font-size: 2em; font-weight: bold; transform: rotate(-15deg); opacity: 0.5;">RECEIVED</div> <div style="font-size: 1.5em; font-weight: bold; transform: rotate(-15deg); opacity: 0.5;">OCT 22 2019</div> <div style="font-size: 1.2em; font-weight: bold; transform: rotate(-15deg); opacity: 0.5;">SC Court of Appeals</div>	
<b>Court Reporter(s)</b> <u>Diane L. Marcengill</u>			
		<b>Keith G. Denny, Esq.</b>	

**Requestor's Signature:**   
(Typed name will serve as signature)

**Date:** October 21, 2019

**Note:** If you are ordering a transcript pursuant to Rule 207(a)(1), SCACR, you must contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter.

For Court Reporter Use Only			
<b>Full Name</b> _____	<b>Date Received</b> _____	<b>Email Address</b> _____	
<b>Notice of Estimate to Requestor Party</b> Date: _____ Number of Pages: _____ Estimated Amount _____			
<b>Mailing Address for Payment</b> _____	<b>City</b> _____	<b>State</b> _____	<b>Zip Code</b> _____

Exhibit "A"

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM OCONEE COUNTY  
In the Court of Common Pleas

J. Cordell Mattox, Circuit Judge

Case No. 2019-CP-37-00320  
Appellate Case No. 2019-001696

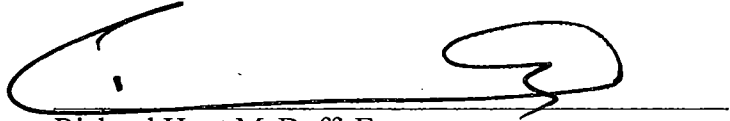
Sommer Smith ..... Respondent

Alma Stone ..... Appellant

PROOF OF SERVICE

I certify that I have served the Motion to Order Transcript Out of Time on Sommer Smith by depositing a copy of it in the United States Mail, postage prepaid, on October 21, 2019, addressed to her attorney of record, Keith G. Denny, 50 Short Street, Walhalla, South Carolina 29691.

October 21, 2019



Richard Hunt McDuff, Esq.  
S.C. Bar No. 76242  
Merrell, Jahn & McDuff, P.A.  
119-B Professional Park Drive  
Seneca, South Carolina 29678  
Tel: (864) 882-2466  
Attorney for Appellant

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SC Court of Appeals

**MERRELL, JAHN & MCDUFF P.A.**  
ATTORNEYS AT LAW

Timothy C. Merrell  
Judson R. Jahn  
Richard H. McDuff

119-B Professional Park Drive  
Seneca, South Carolina 29678

Phone (864) 882-2466  
Fax (864) 882-2467

October 21, 2019

**Via UPS**

South Carolina Court of Appeals  
Attn: Sierra  
1220 Senate Street  
Columbia, SC 29201

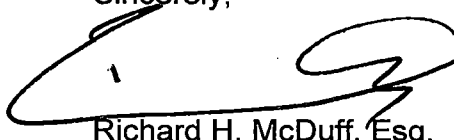
Re: Sommer Smith, Respondent v. Alma Stone, Appellant  
Case No.: 2019-CP-37-00320  
Appellate Case No.: 2019-001696

Dear Sierra:

Please find enclosed Appellant's Motion to Order Transcript Out of Time for the above matter, along with a check for the Motion fee.

If you have any questions, please do not hesitate to contact our office.

Sincerely,



Richard H. McDuff, Esq.

RHM/zrh

Enclosures

cc: Alma Stone (via regular mail)  
Keith Denny, Esq. (via regular mail)

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SC Court of Appeals

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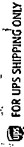
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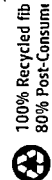
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SC Court of Appeals

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