

9/5/2019

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. 2017-CP-26-08135
Appellate Case No.: 2019-001076

Jesse Cook,

Respondent,

v.

Edward Jenerette,

Appellant.

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SC Court of Appeals

RESPONDENT'S MOTION TO DISMISS

Respondent Jesse Cook, by and through his undersigned attorney, respectfully moves the South Carolina Court of Appeals to dismiss Appellant Edward Jenerette's appeal of the Order issued by the Honorable Larry Hyman on the ground that the appeal is interlocutory and not subject to review under S.C. Code Ann. § 14-3-330. The motion is based on the following:

1. Respondent filed a Summons and Complaint on December 12, 2017 stemming from an automobile accident wherein Appellant's automobile insurance carrier admitted liability. During settlement negotiations with the insurance company, the statute of limitations expired. However, the insurance company continued to negotiate and ultimately settled the companion case involving Respondent's son, who also was injured in the accident.
2. Thereafter, the Honorable William H. Seals, Jr. signed a Form 4 Order dismissing

both actions due to the failure to serve the Summons and Complaint.

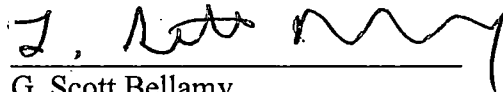
3. After the insurance company reversed course and ceased negotiations, Respondent filed a Motion to Restore Case, which the Honorable Larry Hyman granted.

4. As the Order neither is a final decision nor falls within the exceptions for interlocutory orders enumerated in S.C. Code Ann. § 14-3-330, Appellant is not permitted to appeal at this time.

WHEREFORE, Respondent respectfully requests the Court grant its Motion to Dismiss and enter an order dismissing, without prejudice, Appellant's appeal.

In support of this Motion, Respondent relies upon his Memorandum in Support.

November 27, 2019



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Attorneys for Respondent

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Larry B. Hyman, Presiding Circuit Court Judge

Case No. 2017-CP-26-08135
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Jesse Cook,

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v.

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CERTIFICATE OF SERVICE

The undersigned, an employee of Hearn & Hearn, P.A. and over the age of eighteen (18) years, hereby certifies that (s)he served a copy of Respondent's Motion to Dismiss and Respondent's Memorandum in Support of the Motion to Dismiss by first-class mail, postage prepaid, deposited in the U.S. Mail and addressed to: Mr. Matthew H. Tyler, Aiken, Bridges, Elliott, Tyler & Saleeby, P.A., 181 E. Evans Street, Suite 409, Florence, SC 29506.

This 27th day of November, 2019.

HEARN & HEARN, P.A.

By: 

Sworn to before me this 27th day
of November, 2019.



Notary Public for S.C.

My commission expires: April 20, 2020

Hearn & Hearn, P.A.

Attorneys at Law

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November 26, 2019

TRANSMITTED VIA FACSIMILE (803-734-1839)
AND FIRST-CLASS MAIL

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

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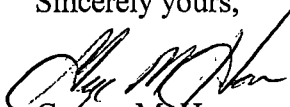
RE: Jesse Cooke v. Edward Jenerette
Appellate Case No. 2019-001076

Dear Ms. Kitchings:

As Scott Bellamy informed you in his letter of November 18th, I have been associated to assist him with the above-referenced appeal. Enclosed for the Court's consideration are an original and six copies of Respondent's Motion to Dismiss and Respondent's Memorandum in Support of the Motion to Dismiss. Also enclosed is the original Certificate of Service by mail and our firm check in the amount of \$50.00.

I am providing opposing counsel with a copy of this transmittal and the underlying Motion.

Sincerely yours,



George M. Hearn

GMH/kk

Enclosures

cc: Mr. G. Scott Bellamy
Mr. Matthew N. Tyler



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