

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Clifton Newman, Circuit Court Judge

Civil Action No. 2016-CP-40-04139
Appellate Case No. 2019-001533

RECEIVED
JAN 22 2020
SC Court of Appeals

Morgan Conley..... Appellant,

v.

April Morganson.....Respondent.

**RETURN TO MOTION
TO FILE DESIGNATION OF MATTER OUT OF TIME**

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Jefferson D. Griffith, III, S.C. Bar #: 2299
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As Counsel for Respondent

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MEMORANDUM OF AUTHORITIES

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INTRODUCTION

The Respondent has consistently failed to comply with and respect the Rules of this Court as follows:

- Respondent's Initial Brief was due to be filed with this Court, no later than November 12, 2019, but Respondent did not file her Initial Brief until November 13, 2019 (the Respondent's Initial Brief was due on November 11, 2019 which is a State Holiday), (the Respondent's Initial Brief's filing date was established by the Appellant's filing of her Notice of Appeal on October 10, 2019). Rule 208(2), South Carolina Appellant Court Rules, ("SCACR").
- Concurrent with Respondent's Initial Brief, Respondent was required to file a Designation of Matter to be Included in the Record on Appeal, but no Designation of Matter by Respondent was filed with this Court. Rule 209, SCACR.
- Respondent's Final Brief was due to be filed with this Court, no later than January 9, 2020, but Respondent did not file her Final Brief until January 13, 2020 (the Respondent's Final Brief's filing date was established by the Appellant's filing of the Record on Appeal on December 20, 2019). Rule 211(a), SCACR.

In summary, Respondent (i) failed to file her Initial Brief on a date which would be compliant with this Court's Rule 208(2), SCACR (ii) failed to file her Designation of Matter to be Included in the Record on Appeal on a date that would be compliant with this Court's Rule 209, SCACR and (iii) failed to file her Final Brief on a date that would be compliant with this Court's Rule 211(a), SCACR.

RETURN TO MOTION

Having failed to comply with three of this Court's Rules, Respondent now request that this Court grant a Motion to file a Designation of Matter out of time, without good cause shown (Respondent simply states in her Motion that her latest failure to file was, "...inadvertent." Furthermore, the Respondent's request would penalize the Appellant, if the Appellant is forced to complete a new Record on Appeal, because of Respondent's failures. The Appellant completed the Record on Appeal in a timely manner and in good faith compliance with this Court's Rule 210, SCACR on December 20, 2019. The Appellant would be prejudiced by this Court's grant of the relief sought in Respondent's Motion.

CONCLUSION

Based on the foregoing, this Court should deny Respondent's Motion as not showing good cause for Respondent's repeated failure to follow this Court's Rules and because of the prejudice to the Appellant.

[Signature Page Follows]

Respectfully Submitted,

A handwritten signature in black ink that reads "Richard L. Whitt". The signature is written in a cursive style with a horizontal line underneath it.

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Irmo, South Carolina
January 17, 2020

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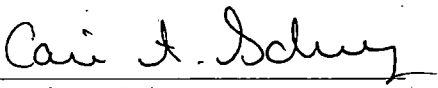
v.

April Morganson.....Respondent.

AFFIDAVIT OF SERVICE

I, Carrie A. Schurg, an employee of Whitt Law Firm, LLC, hereby certify that I have caused the Return to Motion to File Designation of Matter out of Time and this Affidavit of Service, to be served via, U.S. Mail as addressed below, on January 17, 2020.

S. Jahue Moore, Jr., Esquire
Moore, Taylor Law Firm, P.A.
Post Office Box 5709
West Columbia, South Carolina 29171



Carrie A. Schurg

January 17, 2020

Whitt Law Firm, LLC

ATTORNEYS AND COUNSELORS AT LAW

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January 17, 2020

Honorable Jenny Abbott Kitchings,
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

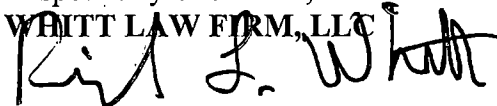
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- Re: • Morgan Conley v. April Morganson
 • **Appellate Case No. 2019-001533**
 • Return to Motion

Ms. Kitchings:

Enclosed, please see the Appellant's Return to Respondent's Motion to File Designation of Matter Out of Time, the required six (6) copies of the same and Affidavit of Service. Please have your staff clock-in the Return to Motion and Affidavit of Service and return the extra enclosed copies in the envelope enclosed herein. Please let us know if you have any questions/concerns or need any additional information.

Respectfully Submitted,
WHITT LAW FIRM, LLC

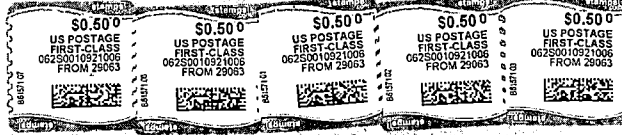


Richard L. Whitt,
Jefferson D. Griffith, III

RLW/cas

cc: S. Jahue Moore, Jr., with enclosures

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