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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas  
Thomas A. Russo, Circuit Court Judge

**RECEIVED**  
MAY 29 2020  
SC Court of Appeals

Appellate Case No. 2020-000056  
Common Pleas Case No. 2018-CP-40-04658

Sterling Hills Homeowners' Association, Inc. ....Respondent,  
v.  
Elliot Hayes .....Appellant.

**RESPONDENT'S MOTION TO DISMISS APPEAL**

Christian Saville  
McCabe, Trotter & Beverly, P.C.  
4500 Fort Jackson Blvd., Suite 250 (29209)  
P.O. Box 212069, Columbia, SC 29221  
Phone: (803) 724-5000 Fax: (803) 724-5001  
Email: [christian.saville@mccabetrotter.com](mailto:christian.saville@mccabetrotter.com)  
*Attorney for Respondent*

Respondent Sterling Hills Homeowners' Association, Inc. ("Respondent"), by and through its undersigned counsel, hereby moves this Court to dismiss Appellant Elliot Hayes' ("Appellant") appeal pursuant to Rule 260, SCACR. The grounds for this motion are as follows:

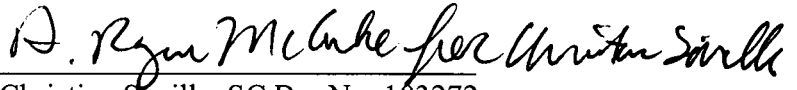
Under Rule 260(a), SCACR, the clerk shall issue an order of dismissal whenever it appears that an appellant has failed to comply with the requirements of the South Carolina Appellate Court Rules. In this case, dismissal is appropriate because Appellant has failed to comply with the requirements of Rule 207(a), SCACR by failing to receive the transcript within the time allotted, and then failing to notify the appropriate personnel, despite written notice from the Court that his appeal was subject to dismissal should he not provide the status within ten days from the date of the notice. Rule 207(a)(5) provides that if an appellant has not received the transcript within the allotted time, nor received notification of an extension within ten days from the allotted time, then the appellant shall notify the Office of Court Administration, the clerk of the appellate court, and the court reporter in writing.

Upon information and belief, Appellant has failed to notify any of the listed entities of the status of the transcript, which is long overdue. Appellant filed the Notice of Appeal on January 13, 2020 in response to Judge Russo's Orders dismissing Appellant's counterclaims and referring the case to the Master in Equity. The transcript was also ordered on January 13, 2020. After one hundred days passed without an update from Appellant regarding the transcript, this Court sent a letter dated April 23, 2020 informing Appellant the transcript was overdue and requiring Appellant to provide an update within ten (10) days of the date of the letter. The letter also required Appellant to copy the Court and the undersigned counsel with any correspondence regarding the transcript. We are now thirty-four (34) days from the date of that letter, and Appellant has not provided any information regarding the transcript required by the Court, nor

has the undersigned counsel been copied on any correspondence regarding the transcript. This Motion is made 135 days after the filing of Appellant's Notice of Appeal, and the record remains completely devoid of any update regarding Appellant's transcript. Respondent has been prejudiced by this delay as it requires timely equitable relief from the Master in Equity to prevent further loss of property values, aesthetics, and community harmony in Sterling Hills.

Therefore, this appeal should be dismissed for Appellant's failure to comply with Rule 207, SCACR and this Court's specific requirements issued to Appellant. Accordingly, this matter shall be allowed to proceed before the Master in Equity pursuant to the underlying Orders so that Respondent's claims may be heard without any further unreasonable delay.

Respectfully submitted,



Christian Saville, SC Bar No. 103272

**MCCABE, TROTTER & BEVERLY, P.C.**

4500 Fort Jackson Blvd., Suite 250 (29209)

P.O. Box 212069, Columbia, SC 29221

Phone: (803) 724-5000 Fax: (803) 724-5001

Email: [christian.saville@mccabetrotter.com](mailto:christian.saville@mccabetrotter.com)

**ATTORNEY FOR RESPONDENT**

May 27, 2020  
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals.

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**PROOF OF SERVICE**

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I, Christian Saville, certify that I have served, or caused to be served, Respondent's Motion to Dismiss Appeal, on counsel for Appellant, Andrew S. Radeker, by depositing one copy of the same in the United States mail, postage prepaid, addressed as follows:

Andrew S. Radeker, Esq.  
Harrison, Radeker & Smith, P.A.  
PO Box 50143  
Columbia, South Carolina 29250  
[drew@harrisonfirm.com](mailto:drew@harrisonfirm.com)

  
Christian Saville, S.C. Bar No. 103272  
McCabe, Trotter & Beverly, P.C.  
4500 Fort Jackson Blvd., Suite 250 (29209)  
P.O. Box 212069, Columbia, SC 29221  
Phone: (803) 724-5000 Fax: (803) 724-5001  
Email: [christian.saville@mccabetrotter.com](mailto:christian.saville@mccabetrotter.com)  
*Attorney for Respondent*

May 27, 2020  
Columbia, South Carolina

Physical Address:  
4500 Fort Jackson Blvd., Suite 250  
Columbia, South Carolina 29209

Mailing Address:  
Post Office Box 212069  
Columbia, SC 29221



McCABE, TROTTER & BEVERLY, P.C.  
COMMUNITY ASSOCIATION AND CONSTRUCTION LAW

Christian Saville  
Associate Attorney

Christian.Saville@mccabetrotter.com

[www.mccabetrotter.com](http://www.mccabetrotter.com)

Phone: (803) 724-5000

Fax: (803) 724-5001

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court of Appeals  
1220 Senate Street (29201)  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: Sterling Hills Homeowners' Association, Inc. v. Elliot Hayes  
Appellate Case No. 2020-000056  
MTB File No.: 011144.00144

Dear Ms. Kitchings:

Enclosed, you will find the original and seven copies of Respondent's Motion to Dismiss Appeal for filing in the above-captioned matter. Also enclosed is my firm's check in the amount of \$50.00 for associated filing fee. Please have a member of your staff return one file-stamped copy to me in the envelope provided herewith.

Should you have questions or concerns, please do not hesitate to let me know.

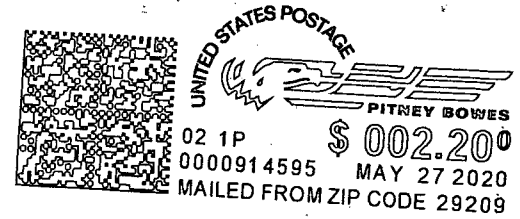
Respectfully,

Christian Saville

Enclosures

cc: Andrew S. Radeker, Esq. (via U.S. Mail and email, w/ enclosures)

McCabe, Trotter & Beverly, P.C.  
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Columbia, SC 29221



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**The Honorable Jenny Abbott Kitchings**  
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