

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas
R. Scott Sprouse, Circuit Court Judge

Jun 10 2020
SC Court of Appeals

Appellate Case No. 2020-000596

Don Stegall.....Respondent,

vs.

Joshua Clay Hillis, Sr.....Appellant.

APPELLANT’S MOTION REGARDING TRANSCRIPT REQUEST

Appellant’s counsel is in receipt of the Clerk’s letter attached hereto as “Exhibit A” concerning the transcript request for the motion hearing at issue in this appeal. Per the instructions in the Clerk’s letter, Appellant hereby moves the Court not to dismiss this appeal and, if necessary, for permission to order the transcript outside of the filing deadlines set by Rule 207, SCACR. In furtherance thereof, the undersigned Appellant’s counsel would state the following:

1. Appellant filed his Notice of Appeal on or about March 25, 2020.
2. Shortly after filing the Notice of Appeal, the undersigned Appellant’s counsel learned that the court reporter for the motion hearing at issue in this appeal had recently retired.
3. On Friday, April 3, 2020, the undersigned emailed the retired court reporter email address (retiredCR@sccourts.org) to initiate a request for the hearing transcript. See Ex. B, page 2.
4. On Monday, April 6, soon after retiredCR@sccourts.org responded to the undersigned’s April 3 email, the undersigned submitted a request for the transcript at issue. See id., pages 2–3.

5. As indicated by the attached email exchanges from April and May, the court reporter's office had difficulty obtaining the transcript at issue in a timely manner due to the Coronavirus situation and the court reporter having recently retired. See Ex. B, pages 4–6.

6. While the undersigned initiated the transcript request on April 3 and submitted the request form on April 6, it was not until Friday, May 29 that the court reporter at issue acknowledged receipt of the request and provided the costs to obtain the transcript. See id., pages 2–3, 8.

7. The next Monday (June 1), the Clerk submitted the letter attached hereto as “Exhibit A.”

8. One day later on June 2, the undersigned emailed the court reporter to request the transcript again and the undersigned mailed a check to the court reporter on June 3. See Ex. B, pages 8–10.

9. While the undersigned initiated the transcript request process on April 3, “within ten (10) days after the date of service of” Appellant’s Notice of Appeal, it took nearly two months for the retired court reporter to provide payment instructions to obtain the transcript and, as of the filing of this motion, the undersigned has yet to receive the transcript at issue. Rule 207(a)(1), SCACR.

10. In recognizing that COVID-19 “will increase the need for extensions to be granted,” the Supreme Court ordered that “[t]he due dates for all Appellate Court filings due during the period of March 20, 2020, thru June 8, 2020, are automatically extended for twenty (20) days.” See ¶ (1)(1–2) of the Supreme Court of South Carolina’s Order “RE: Operation of the Appellate Courts During the Coronavirus Emergency” (App. Case No. 2020-000447), as amended May 29, 2020.

11. Based on the plain language of the aforementioned Supreme Court order, if Rule 207, SCACR required that the transcript at issue be ordered on or before June 1, 2020, that deadline was automatically extended for twenty (20) days until approximately June 20, 2020. See id.

12. The transcript at issue has been ordered and the undersigned is waiting to receive the same.

13. For the reasons stated above and in light of the Supreme Court's recent orders concerning the forgiveness of procedural defaults and automatic extensions for appellate court filings, Appellant respectfully requests "permission to order the transcript outside of the filing deadlines set by Rule 207" per the Clerk's letter attached hereto as Exhibit A.

14. This motion is not interposed for purposes of delay and the relief requested herein is necessary for the appropriate development of this appeal.

15. As evidenced by the email correspondence attached hereto as "Exhibit C," counsel for Appellant has conferred with Respondent's counsel who does not consent to the relief requested in this Appellant's motion.

For the reasons stated above, Appellant Joshua C. Hillis, Jr. respectfully moves the Court to grant this motion and to order the following judicial relief:

- i. Grant Appellant permission to order the transcript outside of the filing deadlines;
- ii. Not to dismiss this appeal for any alleged failure to timely request the transcript;
- iii. Issue such other and further relief as this Court deems appropriate.

Respectfully Submitted,

BRUMBACK & LANGLEY, LLC



Christopher T. Brumback / S.C. Bar No. 75410

Spencer D. Langley, S.C. Bar No. 77686

John H. Scully / S.C. Bar No. 100744

531 S. Main Street, Suite 307

Greenville, SC 29601

(864) 414-9097 (Phone)

(866) 728-1205 (Fax)

john@brumbacklangley.com

Attorneys for Appellant Joshua Clay Hillis, Jr.

June 10, 2020

Greenville, South Carolina

EXHIBIT A



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF 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

June 01, 2020

Mr. Christopher Todd Brumback, Esquire
531 South Main Street, Suite 307
Greenville SC 29601

Mr. Spencer Davis Langley, Esquire
531 South Main Street Suite 307
Greenville SC 29601

Mr. John Hampton Scully, Esquire
531 S. Main Street, Suite 307
Greenville SC 29601

Re: Don Stegall v. Joshua Clay Hillis, Sr.
Appellate Case No. 2020-000596

Dear Counsel:

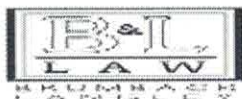
Our records reflect that the time for ordering the transcript has expired. Within ten (10) days of the date of this letter, you must file a copy of the letter showing that you have ordered the transcript directly from the court reporter, along with a motion requesting permission to order the transcript outside of the filing deadlines set by Rule 207 of the South Carolina Appellate Court Rules. Your appeal will be dismissed if no motion is made within ten (10) days of the date of this letter.

Very truly yours,

CLERK

cc: Oscar W. Bannister, Esquire

EXHIBIT B



John Scully <john@brumbacklangley.com>

Request for Transcript; 1/22/20; Stegall v Hillis, 2019CP0402598

4 messages

John Scully <john@brumbacklangley.com>
To: retiredCR@sccourts.org
Cc: Bill Bannister <owBannister@bannisterwyatt.com>

Fri, Apr 3, 2020 at 1:12 PM

Good Afternoon,

I am trying to request a transcript of a civil non-jury motion hearing in Stegall v Hillis (2019CP0402598) which took place at 11:15 am on January 22, 2020 in Anderson before the Honorable R. Scott Sprouse.

It is my understanding that the court reporter from that day might be retired. Where should I direct my request for this motion hearing transcript?

Thanks,

John

Brumback & Langley, LLC

Attorneys and Counselors at Law

John H. Scully

531 S. Main Street, Suite 307

Greenville, SC 29601

Phone: 864-414-9097

Fax: 866-728-1205

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RetiredCR <Retiredcr@sccourts.org>

Mon, Apr 6, 2020 at 12:30 AM

To: John Scully <john@brumbacklangley.com>

Please complete the attached form.

[Quoted text hidden]

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 **Transcript request form.pdf**  
98K

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**John Scully** <john@brumbacklangley.com>  
To: RetiredCR <Retiredcr@sccourts.org>  
Cc: Bill Bannister <owBannister@bannisterwyatt.com>

Mon, Apr 6, 2020 at 2:57 PM

Please see the attached transcript request form. Please let me know if you need anything further on my end to process this request.

Thanks,

John

[Quoted text hidden]

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[Quoted text hidden]

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 **Transcript Request - Stegall v Hillis (JS 4.6.20).pdf**  
228K

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**RetiredCR** <Retiredcr@sccourts.org>  
To: John Scully <john@brumbacklangley.com>

Mon, Apr 6, 2020 at 5:58 PM

Your request was received, it will be sent to a court reporter who will provide you with an estimated cost and delivery date.

[Quoted text hidden]

## 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><br><u>John Hampton Scully</u>              | <b>Phone Number</b><br><u>864-414-9097</u>                                                   | <b>Email Address</b><br><u>John@BrumbackLangley.com</u> |                                 |
| <b>Mailing Address</b><br><u>531 S. Main St., Suite 307</u> | <b>City</b><br><u>Greenville</u>                                                             | <b>State</b><br><u>SC</u>                               | <b>Zip Code</b><br><u>29601</u> |
| Transcript Information                                      |                                                                                              |                                                         |                                 |
| <b>Docket Number</b><br><u>2019 CP0402548</u>               | <b>Case Caption (i.e. State v. John Doe or Smith v. Smith)</b><br><u>Stegall v. Hillis</u>   |                                                         |                                 |
| <b>Date(s) of Proceeding</b><br><u>1/22/2020</u>            | <b>Circuit</b> <input checked="" type="checkbox"/><br><b>Family</b> <input type="checkbox"/> | <b>County</b><br><u>Anderson</u>                        |                                 |
| <b>Presiding Judge</b><br><u>R. Scott Sprouse</u>           | <b>Expedited</b> Yes <input type="checkbox"/><br>No <input checked="" type="checkbox"/>      |                                                         |                                 |
| <b>Court Reporter(s)</b><br><u>_____</u>                    | <b>Opposing Counsel</b><br><u>O.W. Bannister</u><br><u>owbannister@bannisterwyatt.com</u>    |                                                         |                                 |

not sure, →  
Retired

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

**Date:** 4/6/2020

**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><br>_____                                                                                  | <b>Date Received</b><br>_____ | <b>Email Address</b><br>_____ |                          |
| <b>Notice of Estimate to Requestor Party</b><br>Date: _____ Number of Pages: _____ Estimated Amount: _____ |                               |                               |                          |
| <b>Mailing Address for Payment</b><br>_____                                                                | <b>City</b><br>_____          | <b>State</b><br>_____         | <b>Zip Code</b><br>_____ |



John Scully &lt;john@brumbacklangley.com&gt;

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**Stegal v Hills transcript request - D Marcengill, CR**

1 message

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**Allen, Desiree** <DAllen@sccourts.org>

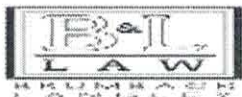
Tue, Apr 28, 2020 at 11:43 AM

To: "john@brumbacklangley.com" &lt;john@brumbacklangley.com&gt;

Cc: "Jackson, Jessica" &lt;jejackson@sccourts.org&gt;

Hey, John. I hope you are well. I apologize for not responding again to people who made requests from Ms. Marcengill's records. By way of explanation, due to the COVID-19 pandemic, we are all working remotely. We do have the records from Ms. Marcengill, who recently retired. However, access to our offices in the Calhoun Building has been extremely limited since the building was closed by the Chief Justice. I have requested permission to access the building later this week, and the plan is to send these records to a court reporter who can prepare the transcript. Upon receipt of the records, they will contact you with the estimated cost and delivery date. I anticipate that you will have the transcript before the 60 days allowed in rule 607. Please feel free to contact me directly with any questions. Thank you for your continued patience.

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John Scully <john@brumbacklangley.com>

RE: Stegal v Hills transcript request - D Marcengill, CR

2 messages

Allen, Desiree <DAllen@sccourts.org>

Thu, May 21, 2020 at 10:51 AM

To: "john@brumbacklangley.com" <john@brumbacklangley.com>

Cc: "Jackson, Jessica" <jejackson@sccourts.org>

Good morning, John. I have an update on this request and wanted to make sure you still needed it. Ms. Marcengill is going to continue preparing requests from her records. I will forward your request to her for preparation if it is still needed. I am sorry for the extreme delay.

From: Allen, Desiree**Sent:** Tuesday, April 28, 2020 11:44 AM**To:** "john@brumbacklangley.com" <john@brumbacklangley.com>**Cc:** Jackson, Jessica <jejackson@sccourts.org>**Subject:** Stegal v Hills transcript request - D Marcengill, CR

Hey, John. I hope you are well. I apologize for not responding again to people who made requests from Ms. Marcengill's records. By way of explanation, due to the COVID-19 pandemic, we are all working remotely. We do have the records from Ms. Marcengill, who recently retired. However, access to our offices in the Calhoun Building has been extremely limited since the building was closed by the Chief Justice. I have requested permission to access the building later this week, and the plan is to send these records to a court reporter who can prepare the transcript. Upon receipt of the records, they will contact you with the estimated cost and delivery date. I anticipate that you will have the transcript before the 60 days allowed in rule 607. Please feel free to contact me directly with any questions. Thank you for your continued patience.

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John Scully <john@brumbacklangley.com>

Thu, May 21, 2020 at 11:34 AM

To: "Allen, Desiree" <DAllen@sccourts.org>

Cc: "Jackson, Jessica" <jejackson@sccourts.org>

Good Morning,

Thank you very much for reaching out to me. Yes, I still need the requested transcript.

Thanks,

John

[Quoted text hidden]

Brumback & Langley, LLC

Attorneys and Counselors at Law

John H. Scully

531 S. Main Street, Suite 307

Greenville, SC 29601

Phone: 864-414-9097

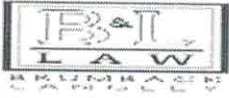
Fax: 866-728-1205

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John Scully <john@brumbacklangley.com>

Stegall v. Hillis

4 messages

Diane Marcengill <dlthommes@gmail.com>

Fri, May 29, 2020 at 10:39 AM

To: john@brumbacklangley.com

Cc: jejackson@sccourts.org

Hi, there.

I am in receipt of your letter requesting the above-referenced hearing transcript heard on January 22, 2020, before Hon. R. Scott Sprouse. I have reviewed my records and estimate that the total page count is approximately 18 pages. Based on the current rate of \$4.25 per page, the cost will be \$76.50.

Please let me know if you would like me to proceed with transcription.

Regards,

Diane Marcengill.

John Scully <john@brumbacklangley.com>

Tue, Jun 2, 2020 at 3:17 PM

To: Diane Marcengill <dlthommes@gmail.com>

Cc: "Jackson, Jessica" <jejackson@sccourts.org>, Bill Bannister <owBannister@bannisterwyatt.com>

Good Afternoon,

Yes, we would like to proceed with ordering the transcript. Who do we send the check to once we receive the transcript?

Please let me know if you need anything further on my end.

Thanks,

John

[Quoted text hidden]

--

Brumback & Langley, LLC

Attorneys and Counselors at Law

John H. Scully

531 S. Main Street, Suite 307

Greenville, SC 29601

Phone: 864-414-9097

Fax: 866-728-1205

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Diane Marcengill <dlthommes@gmail.com>
To: John Scully <john@brumbacklangley.com>

Tue, Jun 2, 2020 at 3:21 PM

Hi, there.

You can go ahead and send a check for \$76.50 payable to me at the address below, and once I have received your check, I will send out your transcript.

Thanks,

Diane Marcengill
1600 Paddock Club Lane, #106
Fort Mill, SC 29715
937-608-6476
[Quoted text hidden]

John Scully <john@brumbacklangley.com>
To: Diane Marcengill <dlthommes@gmail.com>
Cc: Bill Bannister <owBannister@bannisterwyatt.com>

Wed, Jun 3, 2020 at 4:04 PM

Thank you very much. See the attached letter. I am putting the letter and the check in the mail today. Please let me know if you need anything further on my end.

[Quoted text hidden]

 L - Ltr to Ct Reporter (6.3.20).pdf
129K

BRUMBACK & LANGLEY, LLC

ATTORNEYS & COUNSELORS AT LAW

CHRISTOPHER T. BRUMBACK, ESQ.

SPENCER D. LANGLEY, ESQ.

JOHN H. SCULLY, ESQ. (ASSOC.)

531 S. MAIN STREET, SUITE 307
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE (864) 414-9097
FACSIMILE (866) 728-1205

E-MAIL: john@brumbacklangley.com

GENERAL & COMPLEX LITIGATION
BUSINESS & CORPORATE LAW
APPELLATE PRACTICE
CRIMINAL DEFENSE
ESTATE PLANNING
FAMILY LAW

June 3, 2020

SENT VIA U.S. MAIL TO:

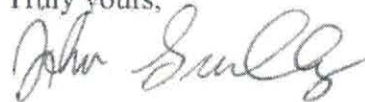
Diane Marcengill
1600 Paddock Club Lane, #106
Fort Mill, SC 29715
937-608-6476

Re: Request for Transcript; Stegall v. Hillis, 2019-CP-04-02598

Good Afternoon,

Per our previous email discussions, please see the attached check payable to you for the fee for obtaining the requested motion hearing transcript in Stegall v. Hillis. Please let me know if you have any questions or if you need anything further on my end to send our firm the motion hearing transcript. Thanking you for your courtesies in this regard, I am

Truly yours,



John H. Scully, Esq.

Enclosures (1)

CC: owBannister@bannisterwyatt.com

EXHIBIT C



John Scully <john@brumbacklangley.com>

Stegall v Hillis - Appeal

2 messages

John Scully <john@brumbacklangley.com>

Wed, Jun 10, 2020 at 11:54 AM

To: Bill Bannister <owBannister@bannisterwyatt.com>

Cc: Terri Coker <TCoker@bannisterwyatt.com>, ccapps@bannisterwyatt.com

Good Morning,

Please see the attached motion concerning the transcript request issue which I intend to file with the Court of Appeals shortly. Once you have reviewed this attachment, please let me know if you consent to the relief requested in this motion.

Thanks,

John

Brumback & Langley, LLC

Attorneys and Counselors at Law

John H. Scully

531 S. Main Street, Suite 307

Greenville, SC 29601

Phone: 864-414-9097

Fax: 866-728-1205

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3 attachments

App - Hillis - Mot for Ext (JS 6.10.20) v3.pdf
228K

 **Ex A - Clerk CoA Itr 6.1.20.pdf**
209K

 **Ex B - emails re transcr req.pdf**
1909K

Bill Bannister <owBannister@bannisterwyatt.com>

Wed, Jun 10, 2020 at 2:12 PM

To: John Scully <john@brumbacklangley.com>

Cc: Terri Coker <TCoker@bannisterwyatt.com>, Christian Capps <ccapps@bannisterwyatt.com>

I cannot consent

O. W. Bannister

Bannister, Wyatt & Stalvey, LLC

401 Pettigru Street (29601)

P.O. Box 10007 (29603)

Greenville, South Carolina

Phone: 864-298-0084

Fax: 864-298-0146

Email: owbannister@bannisterwyatt.com

<image001.png>

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[Quoted text hidden]

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Jun 10 2020

SC Court of Appeals

R. Scott Sprouse, Circuit Court Judge

Appellate Case No. 2020-000596

Joshua Clay Hillis, Sr.....Appellant,

vs.

Don Stegall.....Respondent.

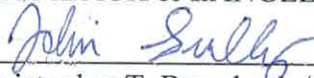
PROOF OF SERVICE

I certify that I have served the Appellant's Motion Regarding Transcript Request on Respondent by sending a copy of the same to his attorney of record, O.W. Bannister, via e-mail to Mr. Bannister's primary e-mail address listed in the Attorney Information System (AIS) on June 10, 2020 in accordance with the Supreme Court of South Carolina's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency" (Appellate Case No. 2020-000447) as amended May 29, 2020.

Dated: June 10, 2020

Respectfully Submitted,

BRUMBACK & LANGLEY, LLC



Christopher T. Brumback / S.C. Bar No. 75410

Spencer D. Langley, S.C. Bar No. 77686

John H. Scully / S.C. Bar No. 100744

531 S. Main Street, Suite 307

Greenville, SC 29601

(864) 414-9097 (Phone)

(866) 728-1205 (Fax)

john@brumbacklangley.com

Attorneys for Appellant Joshua Clay Hillis, Sr.

BRUMBACK & LANGLEY, LLC

ATTORNEYS & COUNSELORS AT LAW

CHRISTOPHER T. BRUMBACK, ESQ.

SPENCER D. LANGLEY, ESQ.

JOHN H. SCULLY, ESQ. (ASSOC.)

531 S. MAIN STREET, SUITE 307
GREENVILLE, SOUTH CAROLINA 29601
TELEPHONE (864) 414-9097
FACSIMILE (866) 728-1205

E-MAIL: john@brumbacklangley.com

GENERAL & COMPLEX LITIGATION
BUSINESS & CORPORATE LAW
APPELLATE PRACTICE
CRIMINAL DEFENSE
ESTATE PLANNING
FAMILY LAW

June 10, 2020

SENT VIA FAX TO:

South Carolina Court of Appeals
ATTN: Jenny Abbott Kitchings
P.O. Box 11629
Columbia, SC 29211
FAX: (803) 734-1839

RECEIVED

Jun 10 2020

SC Court of Appeals

With a copy VIA EMAIL TO:

O.W. Bannister, Esq.
Bannister, Wyatt & Stalvey, LLC
P.O. Box 10007
Greenville, SC 29603
owBannister@bannisterwyatt.com

Re: Notice of Appeal; Stegall v. Hillis, 2019-CP-04-02598

Good Afternoon,

Please see the attached Appellant's Motion Regarding Transcript Request, Exhibits A-C thereto, and the Proof of Service regarding the same. In accordance with the Supreme Court of South Carolina's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency" (Appellate Case No. 2020-000447) as amended May 29, 2020, this Motion is being filed via facsimile to the Court of Appeals (803-734-1839) and served on opposing counsel via e-mail to his primary e-mail address listed in the Attorney Information System.

There should be twenty (20) total pages in this fax, including this page. If you do not receive all 20 pages or if you have any questions or issues with this filing, please call or email me at the contact information listed above. Thanking you for prompt attention to this matter, I am

Truly yours,



John H. Scully, Esq.

Enclosures