

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
The Honorable Doyet Early, III

RECEIVED

Oct 05 2020

SC Court of Appeals

Trial Court Case 2016-CP-40-00100

Hills Machinery Respondent
Company, LLC

v.

Jackson Development..... Appellants.
Group, LLC and J. Elliott Summey

MOTION TO REINSTATE

Appellant moves this Court to reinstate the above-captioned appeal on the grounds that Counsel did attempt to file corrections to the deficiency in early May 2020, but somehow those documents did not reach their destination. A review of the facts will shed some light on the oversight that led to this Court's dismissal on October 2, 2020 and demonstrate that the appeal should be reinstated.

FACTS

On April 3, 2020, Appellant received notice of two technical deficiencies in its final brief. The country was in the beginning of a lockdown, and the printer Counsel used for briefs was closed. Appellant sought an extension and received one until May 8, 2020 to correct the deficiencies. During the month of April, the printer resumed limited operation and Counsel was able to use their services. During this same time, counsel for both parties agreed to submit a

Supplemental Record on Appeal, and Appellant submitted this for printing and binding. Counsel remembers engaging in a telephone conversation LaToya Burns Court of Appeals concerning the Final Brief corrections as the parties were still operating on the unmodified filing rules requiring 14 bound copies at the time of the original filing. Counsel asked if labels with the missing counsel information would be sufficient to correct the Final Brief deficiency and was told that would be sufficient. On May 7, 2020, Counsel for Appellant personally hand delivered a copy the Supplemental Record on Appeal to opposing counsel's office. He then travelled to the Court of Appeals to file the same documents, along with the labels to correct the original Finals Brief, the proof of service for the Final Briefs, and the Supplemental Record on Appeal. Upon arrival, the building was closed to foot traffic and hand deliveries. Counsel then returned home and created a package for mailing to this Court.

Counsel did not follow-up on the mailing, nor did he receive any time-stamped documents back in the mail. This was obviously an oversight. The only proof of the attempted mailing is the single copy of the Supplemental Record on Appeal left from the printing job in April 2020, a photocopy of which is attached as **Exhibit A**, and the receipt from FedEx for the printing of the Supplemental Record on Appeal, attached as **Exhibit B**. More importantly, opposing counsel consents to this motion as indicated by the email attached as **Exhibit C**.

I am including herewith a digital copy of the corrected brief, the proof of service for both the Supplemental Record and the Corrected Brief, and the Supplemental Record on Appeal. A check for \$50.00 is being mailed to the Court contemporaneously. I spoke with Mr. Stanton about consenting to this motion, and he agreed without hesitation. Mr. Stanton has always been fair and collegial in my previous dealings, and this case is no different. Therefore, Counsel asks that this matter be reinstated without delay.

/s/Tucker Player
Player Law Firm, LLC
1415 Broad River Rd.
Columbia, SC 29210
803-315-6300
tucker@playerlawfirm.com

October 5, 2020
Columbia, South Carolina

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SUPPLEMENTAL RECORD ON APPEAL

Tucker S. Player
Player Law Firm, LLC
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Summerville, SC 29483

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Attorneys for Appellants

Other Counsel of Record:
Baron Stanton, Esq.
Stanton Law Firm
PO Box 245
Columbia, SC 29202

EXHIBIT A



Tucker Player <tucker@playerlawfirm.com>

We Received Your Order

1 message

FedEx Office <no-reply.ecommerce@fedex.com>
To: tucker@playerlawfirm.com

Wed, Apr 29, 2020 at 11:07 AM

Dear Tucker,

We received your FedEx Office Print Online order.

ORDER -- SUMMARY DETAILS

Order Number: 1016575743911984
Payment by: Pay At Center
See order details for each recipient below

ORDER_DETAIL -- Part 1

Job Number: 1013370160821996

FedEx Office center producing order: Center - 1538 : 146 Harbison Blvd COLUMBIA, SC 29212 UNITED STATES

Phone: (803) 407-4277

E-mail: usa1538@fedex.com

Documents: TOL Binder 4-2020.pdf (5) TOL Binder 4-2020.pdf Sup record final.pdf (17) Sup record final.pdf

Loyalty Id:

Recipient: Player, Tucker

To be picked up at FedEx Office center (see above)

If you need to cancel this order, please call FedEx Office customer relations at 1.800.GoFedEx (1.800.463.3339) as soon as possible. You can reference your order by Order Number 1016575743911984. Please note that most jobs go into production within 15 minutes of receipt. Orders cancelled after going into production may be subject to a charge.

All jobs produced for customers will be retained for 30 days after the order ready by date on the receipt at which time you will be charged for the completed job if you have not picked up the order. FedEx Office is not responsible for retaining any work not picked up by customer after such 30 day period and is entitled to collect and retain payment for all work performed on the customer's behalf.

This email is automated, and replies to this email will not be received.

EXHIBIT B



Tucker Player <tucker@playerlawfirm.com>

RE: Hills Machinery

1 message

Barry Stanton <bstanton@stantonlaw.com>
To: Tucker Player <tucker@playerlawfirm.com>

Mon, Oct 5, 2020 at 4:02 PM

Yes.

Best,

Barry

EXHIBIT C

From: Tucker Player <tucker@playerlawfirm.com>
Sent: Monday, October 5, 2020 3:29 PM
To: Barry Stanton <bstanton@stantonlaw.com>
Subject: Re: Hills Machinery

Hey. I sent all of this stuff, along with the Supplemental Record on Appeal, back in April. I have no idea what happened.

Will you consent to my motion to reinstate? I hand delivered everything to your office back when I sent it in.

Tucker S. Player

Player Law Firm, LLC

[1415 Broad River Road](#)

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