

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

Kristi Curtis, Circuit Court Judge

Case No.: 2018-CP-43-1583
Appellate Case No. 2019-000873

RECEIVED

Nov 19 2020

SC Court of Appeals

M.B. Hutson, Appellant,

v.

A. Paul Weissenstein, Respondent.

RESPONDENT’S OPPOSITION TO MOTION TO REINSTATE APPEAL

Respondent A. Paul Weissenstein, by and through the undersigned counsel, submits this brief in opposition to Appellant’s motion to reinstate this appeal dated November 16, 2020. By order filed on November 12, 2020, this appeal was dismissed due to Appellant’s repeated failure to serve and file a Record on Appeal that complied with SCACR Rule 210. Appellant failed to comply with the rules despite the Court graciously granting Appellant 165 additional days to serve a Record on Appeal that complied with Rule 210.

In Appellant’s motion to reinstate, Appellant provides no excuse or justification for his failure and refusal to comply with the South Carolina Appellate Court Rules. Instead, he simply objects to the dismissal of his case, because he believes that the Court of Appeals should have sent

him a deficiency letter giving him yet another extension to file the Record on Appeal. This argument is not and should not be sufficient to support reinstatement of the appeal.

As outlined in Respondent's motion to dismiss, the purported Record on Appeal served by Appellant made no attempt to comply with the South Carolina Appellate Court Rules. Instead, Appellant served upon Respondent a list of documents that appeared to be a new designation of matter that was significantly different than the designation of matter initially filed by Appellant. Sixteen of the entries on the list contained a line striking through the name and description of the document.

Furthermore, a stack of documents served upon Respondent was not in the order mandated by Rule 210. It began with a contractual agreement purported to have been executed between 2005-2009, and then included various orders, pleadings, motions, emails, agreements and letters scattered throughout the stack in no particular order. These documents did not contain any consecutive page numbers.

Moreover, the documents served upon Respondent did not include all matters designated by the parties. For instance, items 3, 12, 16, and 18 on Respondent's designation of matter are not included in the stack of documents provided to Respondent. These documents include item 3: an order on pending Motions and ejecting Appellant from Property entered March 20, 2014 (an operative order in the underlying litigation that allegedly gave rise to this legal malpractice action); item 12: Respondent's Opposition to Appellant's "Motion to Reconsider" Exhibits A and B; item 16: Letter from Respondent's Counsel to Circuit Court and Appellant dated January 29, 2019 enclosing Federal Court Orders (in response to the Circuit Court's request for submission of the Federal Court orders); and item 18: the Notice of Appeal.

Even after receiving Respondent's motion to dismiss outlining the substantial noncompliance with SCACR Rule 210 on September 28, 2020, Appellant made no attempt to serve or correct the Record on Appeal. Instead, Appellant seeks to reinstate the appeal with yet another extension of time, despite having previously received five-and-a-half months of extensions to serve and file a Record on Appeal.

Appellant has repeatedly failed to the comply with SCACR Rule 210, including this Court's order requiring service and filing of proof of service of the Record on Appeal on Respondent's counsel "or this appeal may be dismissed."

Accordingly, Respondent respectfully requests that Appellant's motion to reinstate the appeal be denied.

This 19th Day of November 2020

Respectfully submitted,



Steven R. Kropski (S.C. Bar # 101441)

David W. Overstreet (S.C. Bar# 16965)

Ryan M. Gunther (S.C. Bar# 104141)

Earhart Overstreet LLC

P.O. Box 22528

Charleston, South Carolina 29413

(843) 972-9404

Attorneys for Respondent Paul A. Weissenstein

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

Kristi Curtis, Circuit Court Judge

Case No.: 2018-CP-43-1583
Appellate Case No. 2019-000873

RECEIVED

Nov 19 2020

SC Court of Appeals

M.B. Hutson, Appellant,

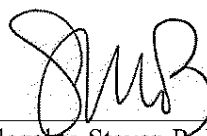
v.

A. Paul Weissenstein, Respondent.

PROOF OF SERVICE

I certify that I have served Respondent's Opposition to Motion to Reinstate Appeal on all parties to this appeal by depositing a copy in the United States Mail, postage prepaid, on November 19, 2020 addressed to *pro se* Appellant as follows:

M.B. Hutson, PRO SE
Post Office Box 2755
Orangeburg, South Carolina 29116-2755



Paralegal to Steven R. Kropski



Earhart Overstreet
ATTORNEYS AT LAW

Main: 843.972.9400
www.earhartoverstreet.com
PO Box 22528, Charleston, SC 29413

Steve@earhartoverstreet.com
Direct: 843.972.9404

November 19, 2020

RECEIVED

Nov 19 2020

SC Court of Appeals

VIA FAX ONLY

Jenny Abbott Kitchings, Clerk
V. Claire Allen, Deputy Clerk
South Carolina Court of Appeals
803-734-1839

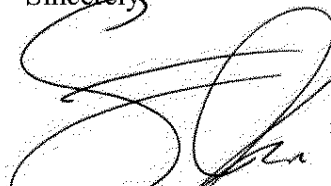
Re: M.B. Hutson, Appellant v. A. Paul Weissenstein, Respondent
Appellate Case No.: 2019-000873

Dear Ms. Kitchings and Ms. Allen:

Enclosed please find a copy of *Respondent A. Paul Weissenstein's Opposition to Motion to Reinstate Appeal*. Please do not hesitate to contact me with any questions or concerns.

With kind regards, I am

Sincerely,


STEVEN R. KROPSKI

SRK/shb
Enclosure

cc: M.B. Hutson, Pro Se (via U.S. Mail; Post Office Box 2755, Orangeburg, SC 29116-2755)

Fax

RECEIVED

Nov 19 2020

SC Court of Appeals

Date: 11/19/2020
To: 803-734-1839
From: Shelbi Brueckner
Subject: Appellate Case No.: 2019-000873 - Hutson v. Weissenstein

Good afternoon,

Please see correspondence from Steve Kropski attached. Should you have difficulty opening the attachments, please let me know. Kindly confirm receipt of this fax. Thank you.

Regards,

[EO Logo]<<http://earhartoverstreet.com/>>
Shelbi H. Brueckner
Paralegal
Direct 843 628 3784
PO Box 22528, Charleston, SC 29413