

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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Feb 04 2021

SC 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

M.B. Hutson, Appellant,

v.

A. Paul Weissenstein, Respondent.

**RESPONDENT'S OPPOSITION TO MOTION TO REINSTATE APPEAL FOR
CONTINUED FAILURE TO COMPLY WITH SCACR 210**

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 and upon Appellant's serving and filing of an Amended Record on Appeal on February 1, 2021 which remains noncompliant with SCACR 210. By order filed on January 26, 2021, this Court advised Appellant that it would consider his motion to reinstate upon filing and service of an Amended Record on Appeal that complies with SCACR 210 within ten (10) days of the Court's order or upon expiration of ten (10) days.

Appellant, thereafter, filed and served an Amended Record on Appeal on February 1, 2021. The Amended Record on Appeal, however, remains noncompliant with Rule 210, and Appellant's motion to reinstate the appeal should be denied.

Even providing leniency for certain errors such as inaccurate page numbers on the index, improper narratives in the description of documents such as number 17(Q), the random bolding of words throughout the index, and the inclusion of correspondence with the Court in the "orders" section of the Amended Record on Appeal, Appellant's Amended Record on Appeal contains deficiencies which cannot be excused.

First, Appellant has now included additional documents that were not identified on either party's designation of matter. Item 13 (Plaintiff's Motion for Production of Documents), Item 14 (Plaintiff's Motion for Hearing for Summary Judgment, with exhibits), and Item 18 (Pl/App's Response Objecting to the Order of the Court with exhibit) were not designated by either party and have been improperly added to the Amended Record on Appeal.

Additionally, Plaintiff has omitted multiple documents purported to be included in the Amended Record on Appeal. Appellant states that a consent order entered by Judge James on April 13, 2012 is the first document within the Amended Record on Appeal, however, the Amended Record on Appeal contains no such consent order. Similarly, Plaintiff identifies as item 9(R) a "Common Pleas: Plaintiff's response to "Defendant's Memorandum in Support of Motion to Dismiss or for Summary Judgment," but only one page from an unrelated document appears in this space and the document identified does not appear in the Amended Record on Appeal. Likewise, Item 17(Q) purports to be an email from Respondent "confirming work on a development" but is instead an unrelated email between Respondent and opposing counsel concerning the underlying settlement agreement.

In sum and substance, the Record on Appeal in this case was initially due March 27, 2020. After over ten (10) months, Appellant has still failed to the comply with SCACR Rule 210, including this Court's order requiring service and filing of an Amended Record on Appeal.

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

This 4th day of February 2021

Respectfully submitted,



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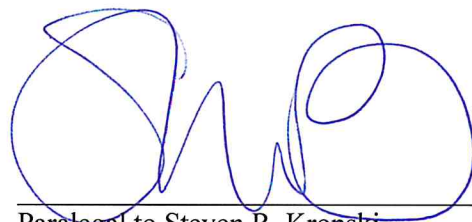
v.

A. Paul Weissenstein, Respondent.

PROOF OF SERVICE

I certify that I have served Respondent's Opposition to Motion to Reinstate Appeal for Continued Failure to Comply with SCACR 210 on all parties to this appeal by depositing a copy in the United States Mail, postage prepaid, on February 4, 2021 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

February 4, 2021

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VIA EMAIL ONLY

Jenny Abbott Kitchings, Clerk
V. Claire Allen, Deputy Clerk
South Carolina Court of Appeals
ctappfilings@sccourts.org


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 for Continued Failure to Comply with SCACR 210*. 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)