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**Apr 07 2021**  
**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

Kristi Curtis, Circuit Court Judge

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

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M.B. Hutson, Appellant,

v.

A. Paul Weissenstein, Respondent.

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

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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 and a Supplemental Record on Appeal on March 25, 2021, which still 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, remained noncompliant with Rule 210. By order filed March 22, 2021, this Court again advised Appellant that it would consider his motion to reinstate upon filing and service of a Supplemental 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 a Supplemental Record on Appeal on March 25, 2021. The Supplemental Record on Appeal, however, still remains noncompliant with Rule 210, and Appellant's motion to reinstate should be denied.

Appellant's Supplemental Record on Appeal does correctly supplement the "Consent Order of April 13, 2012" and "Common Pleas: Plaintiff's Response to Defendant's Memorandum in Support of Motion to Dismiss or Summary Judgment." However, Appellant's Supplemental Record on Appeal fails to address Item 17-Q in the Amended Record on Appeal this Court specifically identified in its March 22<sup>nd</sup> Order as needing supplementation. This Court's Order states "Specifically, the supplemental record shall include (1) the April 13, 2012 consent order, (2) the entirety of the item designated "Common Pleas: Plaintiff's response to 'Defendant's Memorandum in Support of Motion to Dismiss or for Summary Judgment'"; and (3) the email 'confirming work on a development.'" (emphasis added)

Item 17-Q was the purported to be an email from Respondent "confirming work on a development" which allegedly shows Respondent "did not recognize [the work] was impossible due to title defects and therefore did not notify his client" but was instead an unrelated email between Respondent and opposing counsel concerning the underlying settlement agreement. This purported email has been identified by Appellant, but has not been presented to Respondent, nor been present in any of the Appellant's attempted records on appeal.

In his Supplemental Record on Appeal, Appellant instead included emails that were already included in the Amended Record on Appeal and did not need supplementation. These emails were Items 17-AA, 17-BB, 17-CC, and 17-DD of Appellant's Amended Record on Appeal. Appellant does not include the purported Item 17-Q email in his Supplemental Record on Appeal and, consequently, Appellant's Record on Appeal is still deficient.

Appellant also fails to address the additional documents that were included in his Amended Record on Appeal 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. Therefore, these items were improperly added to the Amended Record on Appeal and Appellant fails to correct this issue in his Supplemental Record on Appeal.

In sum and substance, the Record on Appeal in this case was initially due March 27, 2020. After over a full year, Appellant has still failed to the comply with SCACR Rule 210, including this Court's orders requiring service and filing of an Amended Record on Appeal and, subsequently, a Supplemental Record on Appeal.

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

[SIGNATURE PAGE FOLLOWS]

This 7th day of April 2021.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be 'SRK', written over a horizontal line.

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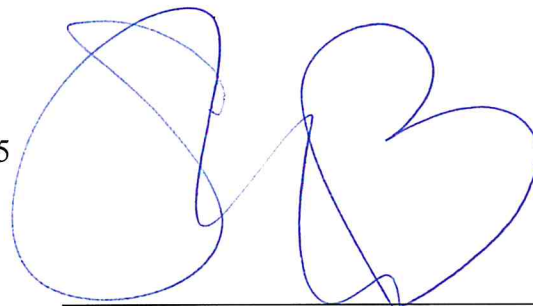
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**PROOF OF SERVICE**

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I certify that I have served Respondent's Second 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 April 7, 2021 addressed to *pro se* Appellant as follows:

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

A handwritten signature in blue ink, consisting of two large, stylized loops connected by a horizontal line.

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Paralegal to Ryan M. Gunther