

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Jennifer B. McCoy

Case No.: 2007-CP-10-01444
App. Case No.: 2020-000968

RECEIVED

Dec 15 2020

SC Court of Appeals

Cynthia Holmes, M.D.Respondent/Appellant,

v.

Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A.,
Manton Grier and James Y. Becker, Defendants,

Of which Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A.,
Is theAppellant/Respondent.

APPELLANT/RESPONDENT'S MOTION TO DISMISS CROSS-APPEAL

HAYNSWORTH SINKLER BOYD, P.A.
Mary M. Caskey
Mary Cothonneau Eldridge
C. Elizabeth Weston
1201 Main Street, Suite 2200
Post Office Drawer 11889 (29211-1889)
Columbia, South Carolina 29201
(803) 779.3080 Tel
(803) 765.1243 Fax
Attorneys for Appellant/Respondent

Appellant/Respondent hereby moves that the Respondent/Appellant's cross-appeal be dismissed on the grounds that the cross-appeal is untimely. Appellant/Respondent filed its Notice of Appeal on June 30, 2020, and Respondent/Appellant Cynthia Holmes ("Holmes") filed her Notice of Cross-Appeal August 4, 2020. On August 14, 2020, Holmes sent a letter to Christine Smith, the court reporter for the Charleston County trial court, requesting transcripts for hearings dated March 10, 2017 and June 16, 2017. A copy of Holmes' correspondence is attached as **Exhibit A**. On October 7, 2020, and in response to a letter from Holmes' counsel requesting an update on the status of the transcript request, Ms. Smith wrote Holmes and informed her that she would resend the requested transcripts, and further noted that she previously sent Holmes the requested transcripts on August 13, 2020. A copy of Ms. Smith's correspondence is attached as **Exhibit B**. On October 17, 2020, Holmes filed a Notice of Receipt of Transcript for Cross-Appeal affirming that Holmes' received the subject transcripts on October 11, 2020. A copy of the Notice is attached as **Exhibit C**.

Pursuant to Rule 208(a)(1), an appellant must serve its initial brief on all parties and file its initial brief with the clerk of the appellate court within thirty days after receiving the transcript. Despite having received the requested transcripts on October 11, 2020, however, Holmes did not serve her initial brief on all parties until November 15, 2020, and the Court did not file the brief until November 16, 2020—four and five days beyond the thirty-day deadline, respectively. Rule 208(a)(4) states that, “[u]pon the failure of the appellant to file and serve his brief within the time prescribed, the clerk of the appellate court shall sign an order dismissing the appeal[.]” Because Holmes failed to timely file her initial brief, her cross-appeal must be dismissed.

CONCLUSION

For these reasons, Appellant/Respondent respectfully requests that the Court dismiss Respondent/Appellant Holmes' cross-appeal. In addition, based on the foregoing, Appellant/Respondent respectfully requests that this Court hold all deadlines, including the deadline for Appellant/Respondent to file its response to Respondent/Appellant's brief, in abeyance pending the resolution of the Motion to Dismiss.

Respectfully submitted,



Mary M. Caskey, SC Bar No. 76198
Mary Cothonneau Eldridge, SC Bar No. 102698
Clara Elizabeth Weston, SC Bar No. 103305
Haynsworth Sinkler Boyd, P.A.
Post Office Drawer 11889
Columbia, South Carolina 29211
Telephone: (803) 779-3080
Fax: (803) 765-1243

Attorneys for Respondents

December 15, 2020
Columbia, South Carolina

EXHIBIT A

14 August 2020

Ms. Christine Smith
PO Box 30276
Charleston, SC 29417

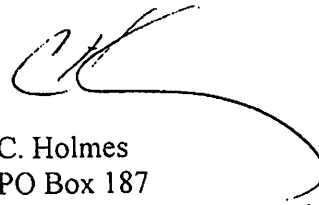
Re: Doe (C Holmes) v. Becker et el
2007-CP-10-1444

Dear Ms. Smith:

Kindly accept this transcript request as the court reporter for the hearing dated March 10, 2017, and June 16, 2017, in the above matter. We are happy to pay the usual fee. If pre-payment is needed or if you have any questions, please notify us of the amount at 843.883.3010 and we will promptly pay.

Please do not hesitate to contact us with any questions. Thanking you in advance and with best personal regards, I remain

Very truly yours,



C. Holmes
PO Box 187
Sullivans Island, SC 29482
843.883.3010

EXHIBIT B

Christine A. Smith, Court Reporter
P.O. Box 30276
Charleston, SC 29417

October 7, 2020

C. Holmes, MD
P.O. Box 187
Sullivans Island, SC 29482

Re: Case No. 2007-CP-10-1444.

Dear Ms. Holmes:

I am resending the following transcripts to you dated:

3/10/17

6/16/17

This is at least the sixth time I've printed them. My records indicate they were printed and sent out on:

8/13/20

10/31/19

10/3/17

8/22/17

6/27/17

There will be a lookup/reprint fee associated with this. The bill will be attached.

Thank you,



Christine A. Smith

cc: ✓ Mary Caskey, Esq.
Chalmers Johnson, Esq.
SCCA
SCCOA

EXHIBIT C

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

9th Judicial Circuit Court Judge

S.C. Court of Appeals Case No. 2020-000968
Case No. 2007-CP-10-01444

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Oct 19 2020

SC Court of Appeals

C. Holmes, M.D,

Respondent-Appellant,

v.

Manton Grier, James Y. Becker, and
Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,

Appellant-Respondents.

NOTICE OF RECEIPT OF TRANSCRIPT FOR CROSS-APPEAL

Counsel for the Respondent-Appellant, Dr. Holmes, hereby notifies the Court and opposing counsel that he received the requested transcripts relevant to the Cross Appeal by mail on October 11, 2020.

Dated October 17, 2020


Chalmers C. Johnson

PO Box 1575
Port Orchard, WA 98366
chalmersjohnson@gmail.com
425.999.0900
For Respondent-Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
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S.C. Court of Appeals Case No. 2020-000968
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v.

Manton Grier, James Y. Becker, and
Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,

Appellant-Respondents.

PROOF OF SERVICE

I certify that, on October 17, 2020 I have served a copy of the foregoing on the Appellant-Respondents by email at mcaskey@hsblawfirm.com and/or by depositing a copy in the United States Mail, postage prepaid, addressed to the attorney of record for the Appellant/Respondent:
Mary M. Caskey, Esq.
PO Box 11889
Columbia, SC 29211


Chalmers C. Johnson

PO Box 1575
Port Orchard, WA 98366
chalmersjohnson@gmail.com
425.999.0900
For Respondent-Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Jennifer B. McCoy

Case No.: 2007-CP-10-01444
App. Case No.: 2020-000968

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SC Court of Appeals

Cynthia Holmes, M.D.Respondent/Appellant,

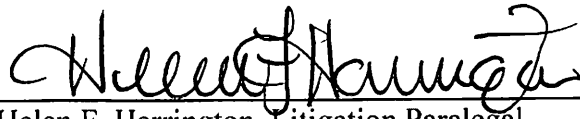
v.

Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A.,
Manton Grier and James Y. Becker, Defendants,

Of which Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A.,
Is the.....Appellant/Respondent.

PROOF OF SERVICE

I certify that the **Appellant/Respondent's Motion to Dismiss Cross-Appeal** was served upon the Respondent's attorney of record by electronic mail only, sent to Chalmers C. Johnson, Esquire at chalmersjohnson@gmail.com, on the 15th day of December, 2020,.



Helen F. Harrington, Litigation Paralegal
HAYNSWORTH SINKLER BOYD, P.A.
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Telephone: (803) 779-3080

**HAYNSWORTH
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MARY COTHONNEAU ELDRIDGE
803.779.3080
meldridge@hsblawfirm.com

December 15, 2020

VIA HAND DELIVERY

AND EMAIL: ctappfilings@sccourts.org

The Honorable Jenny Abbott Kitchings
Clerk of Court, The South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RECEIVED

Dec 15 2020

SC Court of Appeals

RE: *Cynthia Holmes, M.D. v. Haynsworth Sinkler Boyd, PA*
Case No. 2007-CP-10-1444
Appellate Case No. 2020-000968
HSB File No. 04625.1439

Dear Ms. Kitchings:

Enclosed for filing is Appellant/Respondent's Motion to Dismiss Cross-Appeal and Proof of Service in connection with the referenced appeal, along with our firm's check in the amount of \$50.00.

Please contact me at 803-779-3080 if you have any questions or need anything further from us at this time.

Thank you for your assistance in this matter.

Sincerely,



Mary Cothonneau Eldridge

MCE/hh

Enclosure

cc(w/encl.): Chalmers Johnson, Esq. (via e-mail: chalmersjohnson@gmail.com)
Mary M. Caskey, Esq. (via e-mail: mcaskey@hsblawfirm.com)