

RECEIVED

Jan 12 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Judge Roger M. Young, Sr.,
The Honorable R. Kirk Griffin
and The Honorable Bentley D. Price

Court of Appeals Case No. 2022-000021
Family Court Case No. 2021-CP-10-2682

Pet Helpers, Inc. Respondent,

v.

Janet L. Frisco Appellant.

MOTION TO DISMISS

Respondent moves this Honorable Court, pursuant to Rule 240, SCACR, for an Order dismissing this appeal. The grounds for this appeal are that the Appellant’s service of the Notice of Appeal was untimely in that it was served more than thirty (30) days after Appellant’s written notice of entry of the orders referenced in the appeal.

PROCEDURAL BACKGROUND

The timeline in this case is as follows:

- On June 17, 2021, the Honorable Judge Roger M. Young, Sr. issued an Injunction and Restraining Order. Respondent gave Appellant written notice of entry of this order on June 17, 2021 via email. **See Exhibit A.**

- On July 29, 2021, the Honorable R. Kirk Griffin issued a 2nd Order for Injunction and Temporary Restraining Order. Respondent gave Appellant written notice of entry of this order on July 30, 2021 via email and US Mail. **See Exhibit B.**
- On October 12, 2021, the Honorable Bentley D. Price issued an Order on Plaintiff's Motion to Reconsider. Respondent gave Appellant written notice of entry of this order on October 12, 2021 via email and US Mail. **See Exhibit C.**
- On November 5, 2021, the Honorable Bentley D. Price issued a Form 4 Order regarding Contempt of Court. Respondent gave Appellant written notice of entry of this order on November 9, 2021 via email and US Mail. **See Exhibit D.**
- Appellant emailed her Notice of Appeal to Respondent's counsel on January 8, 2022. Respondent received Appellant's Notice of Appeal by US Mail on January 11, 2022.

ARGUMENT

I. THIS COURT SHOULD DISMISS THE APPEAL BECAUSE APPELLANT FAILED TO SERVE HER APPEAL WITHIN THIRTY (30) DAYS AFTER WRITTEN NOTICE OF ENTRY OF THE ORDERS PURSUANT TO RULE 203(b)(1), SCACR.

Pursuant to Rule 203(b)(1), SCACR, “[a] notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgement.” “South Carolina follows a bright-line rule: the timely service of the notice of appeal is a jurisdictional requirement, without which appellate courts lack the authority to hear and decide cases.” Wells Fargo N.A. v. Fallon Properties, S.C., LLC, 422 S.C. 211, 220, 810, S.E.2d 856, 861 (2018). The deadline cannot be extended. Hill v. S.C. Dep’t of Health & Envtl. Control, 389 S.C. 1, 698 S.E.2d 612 (2010); *see also* Sadisco of Greenville, Inc v. Greenville Cty. Bd. of Zoning Appeals, 340 S.C. 57, 59 530 S.E2d 383, 384 (2000) (“This Court has consistently stated that

service of the Notice of Appeal is a jurisdictional requirement, and this court has no authority to extend or expand the time in which the Notice of Appeal must be served.” (emphasis added)); Jean Hofer Toal et al., Appellate Practice in South Carolina 122 (3d ed. 2016) (“If a party fails to [timely serve the notice of appeal], the appellate court has no authority or discretion to rescue the delinquent party by extending or ignoring the deadline because the appellate court lacks jurisdiction over the matter.” (emphasis added))

Here, Appellant received written notice, via email, of Judge Young’s order on June 17, 2021, Judge Griffin’s order on July 30, 2021, Judge Price’s first order on October 12, 2021, and Judge Price’s second order on November 9, 2021. However, Appellant failed to serve her appeal within thirty (30) days of written notice of the entry of any of the four orders referenced herein, and this court should dismiss the appeal.

CONCLUSION

Because Appellant did not timely serve her notice of appeal, this Court has no jurisdiction, authority, or discretion to hear this matter, and this Court should dismiss this appeal.

Respectfully submitted,

FUTERAL & NELSON, LLC



Stephan V. Futeral
SC Bar ID 66427
1004 Anna Knapp Blvd., Suite 3
Mount Pleasant, South Carolina 29465
(843) 284-5500 Phone (843) 284-5501 Fax
sfuteral@charlestonlaw.net
Attorney for Respondent

Dated: January 12, 2022

Subject: Pet Helpers v. Frisco - Injunction & Restraining Order
Date: Thursday, June 17, 2021 at 3:54:37 PM Eastern Daylight Time
From: Stephanie Smith
To: Janet Frisco
CC: Stephan Futeral
BCC: Melissa Susko
Attachments: Injunction & Restraining Order (filed 6.17.2021).pdf

Ms. Frisco,

Attached is a filed copy of the Injunction and Restraining Order issued by the Court following today's hearing.

Sincerely,

Stephanie M. Smith

Paralegal
Futeral & Nelson, LLC
1004 Anna Knapp Blvd., 2nd Floor
Mount Pleasant, SC 29464
(843) 284-5500 – Phone
(843) 284-5501 – Facsimile
www.charlestonlaw.net

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IRS CIRCULAR 230 NOTICE: Any federal tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending any transaction or matter addressed in this communication. Thank you.

www.charlestonlaw.net

Our law firm is practicing social distancing in accordance with the recommendations of the CDC and SC DHEC. This means we are limiting face-to-face interaction in the following ways:

- 1. Beginning March 18, 2020, client meetings will take place by telephone.**
- 2. Beginning March 18, 2020, our office will be locked to outside guests.**
- 3. Documents that need to be delivered should be sent electronically or slipped under the front door of our office (not the exterior door to our building).**
- 4. If you must come in the office (need something notarized or to prepare for a hearing) we will make special accommodations in advance.**
- 5. If you need to schedule an appointment, a special accommodation, or have any questions, please call us at (843) 284-5500.**



Subject: Pet Helpers v. Frisco - 2021-CP-10-2682
Date: Friday, July 30, 2021 at 11:25:43 AM Eastern Daylight Time
From: Stephanie Smith
To: Janet Frisco
CC: Stephan Futeral
BCC: Melissa Susko
Attachments: Ltr to Frisco (7.30.2021).pdf

Ms. Frisco,

Attached please find correspondence enclosing the following documents. A hard copy is being sent to you in today's mail.

1. 2nd Order for Injunction and Temporary Restraining Order (filed July 30, 2021);
2. 2nd Motion for Emergency/Ex Parte Restraining Order and Injunctive Relief (filed July 23, 2021);
3. Plaintiff's Memorandum in Support of 2nd Motion for Restraining Order and Injunctive Relief (filed July 28, 2021);
4. Plaintiff's Supplemental Memorandum in Support of 2nd Motion for Restraining Order and Injunctive Relief (filed July 29, 2021); and
5. Plaintiff's 2nd Supplemental Memorandum in Support of 2nd Motion for Restraining Order and Injunctive Relief (filed July 30, 2021).

Sincerely,

Stephanie M. Smith

Paralegal
Futeral & Nelson, LLC
1004 Anna Knapp Blvd., 2nd Floor
Mount Pleasant, SC 29464
(843) 284-5500 – Phone
(843) 284-5501 – Facsimile
www.charlestonlaw.net

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Futeral & Nelson LLC

1004 Anna Knapp Boulevard
Mount Pleasant, South Carolina 29464

Mailing Address:

P.O. Box 1385

Mount Pleasant, South Carolina 29465

Tel: 843-284-5500 | Fax: 843-284-5501

charlestonlaw.net

July 30, 2021

VIA EMAIL AND US MAIL

Janet Frisco
203 Cardinal Drive
Summerville, SC 29485

RE: Pet Helpers, Inc. v. Janet Frisco
Case No.: 2021-CP-10-2682

Dear Ms. Frisco:

Enclosed please find a copy of the following:

1. 2nd Order for Injunction and Temporary Restraining Order (filed July 30, 2021);
2. 2nd Motion for Emergency/Ex Parte Restraining Order and Injunctive Relief (filed July 23, 2021);
3. Plaintiff's Memorandum in Support of 2nd Motion for Restraining Order and Injunctive Relief (filed July 28, 2021);
4. Plaintiff's Supplemental Memorandum in Support of 2nd Motion for Restraining Order and Injunctive Relief (filed July 29, 2021); and
5. Plaintiff's 2nd Supplemental Memorandum in Support of 2nd Motion for Restraining Order and Injunctive Relief (filed July 30, 2021);

Sincerely,

Stephanie M. Smith
Paralegal to Stephan V. Futeral

/sms

Enclosures

cc: Client

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

PET HELPERS, INC.,

Plaintiff,

vs.

JANET FRISCO,

Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO.: 2021-CP-10-2682

CERTIFICATE OF SERVICE

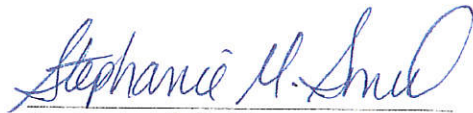
The documents listed below were served on the following individual by U.S. mail with sufficient postage and by email this 30th day of July, 2021:

Documents Served:

1. 2nd Order for Injunction and Temporary Restraining Order (filed July 30, 2021);
2. 2nd Motion for Emergency/Ex Parte Restraining Order and Injunctive Relief (filed July 23, 2021);
3. Plaintiff's Memorandum in Support of 2nd Motion for Restraining Order and Injunctive Relief (filed July 28, 2021);
4. Plaintiff's Supplemental Memorandum in Support of 2nd Motion for Restraining Order and Injunctive Relief (filed July 29, 2021); and
5. Plaintiff's 2nd Supplemental Memorandum in Support of 2nd Motion for Restraining Order and Injunctive Relief (filed July 30, 2021);

Served Upon:

Janet Frisco
203 Cardinal Drive
Summerville, SC 29485
Janetfrisco@yahoo.com



Stephanie M. Smith
Paralegal to Stephan V. Futeral, Esq

Subject: Pet Helpers v. Frisco - Order on Motion to Reconsider
Date: Tuesday, October 12, 2021 at 4:00:13 PM Eastern Daylight Time
From: Stephanie Smith
To: Janet Frisco
CC: Stephan Futeral
Attachments: Ltr to Frisco (10.12.2021).pdf

Ms. Frisco,

Attached please find a copy of the correspondence being sent to you by US Mail today enclosing a filed copy of the Order on Plaintiff's Motion to Reconsider.

Sincerely,

Stephanie M. Smith

Paralegal
Futeral & Nelson, LLC
1004 Anna Knapp Blvd., 2nd Floor
Mount Pleasant, SC 29464
(843) 284-5500 – Phone
(843) 284-5501 – Facsimile
www.charlestonlaw.net

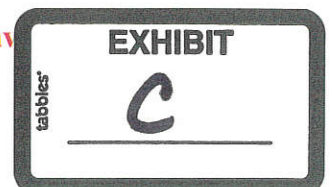
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www.charlestonlaw.net

Due to the increasing spread of COVID variants, our law firm is will be taking the following steps to ensure the safety of our clients and our employees. This means we are limiting face-to-face interaction in the following ways:

- 1. Effective July 29, 2021 all client meetings will be virtual or by telephone.**
- 2. Effective July 29, 2021 our office will be locked to outside guests.**
- 3. Documents that need to be delivered should be sent electronically, via mail, or slipped under the front door of our office (not the exterior door to our building).**
- 4. If you must come to the office (need something notarized or to prepare for a hearing) we will make special arrangements in advance.**
- 5. If you need to schedule an appointment, a special accommodation, or have any questions, please call us at (843) 284-5500**





Futeral & Nelson LLC

1004 Anna Knapp Boulevard
Mount Pleasant, South Carolina 29464

Mailing Address:

P.O. Box 1385
Mount Pleasant, South Carolina 29465
Tel: 843-284-5500 | Fax: 843-284-5501
charlestonlaw.net

October 12, 2021

VIA EMAIL AND US MAIL

Janet Frisco
203 Cardinal Drive
Summerville, SC 29485

RE: Pet Helpers, Inc. v. Janet Frisco
Case No.: 2021-CP-10-2682

Dear Ms. Frisco:

Enclosed please find a filed copy of the *Order on Plaintiff's Motion to Reconsider* along with a *Certificate of Service*.

Sincerely,

Stephanie M. Smith
Paralegal to Stephan V. Futeral

/sms
Enclosures
cc: Client

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

PET HELPERS, INC.,

Plaintiff,

vs.

JANET FRISCO,

Defendant.

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

CASE NO.: 2021-CP-10-2682

CERTIFICATE OF SERVICE

The documents listed below were served on the following individual by U.S. mail with sufficient postage and by email this 12th day of October 2021:

Document Served:

Order on Plaintiff's Motion to Reconsider

Served Upon:

Janet Frisco
203 Cardinal Drive
Summerville, SC 29485
Janetfrisco@yahoo.com



Stephanie M. Smith

Paralegal to Stephan V. Futeral, Esq

Subject: Pet Helpers v. Frisco - Motion to Reconsider Order on 2nd Rule to Show Cause
Date: Tuesday, November 9, 2021 at 4:32:19 PM Eastern Standard Time
From: Stephanie Smith
To: Janet Frisco
CC: Stephan Futeral
Attachments: Ltr to Frisco encl. Motion to Reconsider (11.9.2021).pdf

Janet,

Attached please find correspondence enclosing Plaintiff's *Motion to Reconsider Form 4 Order on Plaintiff's Motion for 2nd Rule to Show Cause* which was filed with the Court today and sent to you by US mail.

Sincerely,

Stephanie M. Smith

Paralegal
Futeral & Nelson, LLC
1004 Anna Knapp Blvd., 2nd Floor
Mount Pleasant, SC 29464
(843) 284-5500 – Phone
(843) 284-5501 – Facsimile
www.charlestonlaw.net

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- 4. If you must come to the office (need something notarized or to prepare for a hearing) we will make special arrangements in advance.**
- 5. If you need to schedule an appointment, a special accommodation, or h please call us at (843) 284-5500**





Futeral & Nelson LLC

1004 Anna Knapp Boulevard
Mount Pleasant, South Carolina 29464

Mailing Address:

P.O. Box 1385
Mount Pleasant, South Carolina 29465
Tel: 843-284-5500 | Fax: 843-284-5501
charlestonlaw.net

November 9, 2021

VIA EMAIL AND US MAIL

Janet Frisco
203 Cardinal Drive
Summerville, SC 29485

RE: Pet Helpers, Inc. v. Janet Frisco
Case No.: 2021-CP-10-2682

Dear Ms. Frisco:

Enclosed please find a copy of the *Motion to Reconsider Form 4 Order on Plaintiff's Motion for 2nd Rule to Show Cause* which was sent to the Court today for filing.

Sincerely,

Stephanie M. Smith
Paralegal to Stephan V. Futeral

/sms
Enclosures
cc: Client

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

PET HELPERS, INC.,
Plaintiff,

vs.

JANET FRISCO,
Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO.: 2021-CP-10-2682

**MOTION TO RECONSIDER FORM 4
ORDER ON PLAINTIFF'S MOTION
FOR 2ND RULE TO SHOW CAUSE**

TO: THE HONORABLE BENTLEY D. PRICE, AND THE ABOVE-NAMED
DEFENDANT, JANET FRISCO:

YOU WILL PLEASE TAKE NOTICE that the undersigned will move before the Honorable Bentley D. Price, presiding Judge, Court of Common Pleas for Charleston County, within ten (10) days or as soon thereafter as counsel may be heard, for an Order, pursuant to Rule 59(e), SCRPC for an order reconsidering the court's failure to address Plaintiff's request for attorney's fees and failure to include its ruling from the bench requiring Defendant to delete her Facebook account (see Form 4 Order attached hereto). This motion is made upon the following grounds:

I. THIS COURT SHOULD GRANT PLAINTIFF'S MOTION TO RECONSIDER BECAUSE THE COURT FAILED TO ADDRESS PLAINTIFF'S REQUEST FOR AN AWARD OF ATTORNEY'S FEES AND COSTS.

This Court should grant Plaintiff's Motion to Reconsider because the Court failed to rule on Plaintiff's request for an award of attorney's fees and costs for Plaintiff's 2nd Rule to Show Cause in the amount of \$7,834.74. This Court did not rule on Plaintiff's request to require

Defendant to pay attorney's fees and costs for its 2nd Rule to Show Cause prior to being released from incarceration.

II. THIS COURT SHOULD GRANT PLAINTIFF'S MOTION TO RECONSIDER BECAUSE THE COURT FAILED TO INCLUDE ITS RULING FROM THE BENCH REQUIRING DEFENDANT TO DELETE HER FACEBOOK ACCOUNT WITHIN THE FORM 4 ORDER.

At the hearing, this Court issued a ruling from the bench requiring Defendant to immediately delete her Facebook account. In open Court, Defendant blatantly refused to comply with this Court's order to delete her Facebook account. Moreover, Defendant somehow managed to violate this Court's orders by posting to Facebook while Defendant was incarcerated. (See attached Exhibit A). Therefore, it is imperative that this Court include in its Form 4 Order a requirement that Defendant delete her Facebook account. Due to Defendant's continued and repeated violations, Plaintiff requests that this Motion be scheduled on an expedited basis.

Rule 11 Affirmation

Counsel for the movant hereby certifies that consultation with the Defendant regarding this motion would serve no useful purpose.

Futeral & Nelson, LLC

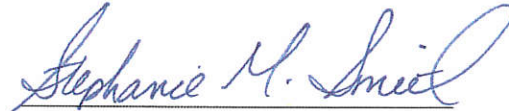
s/ Stephan V. Futeral
Stephan V. Futeral, Esquire
S.C. Bar ID 66427
1004 Anna Knapp Blvd., Suite 3
Mount Pleasant, South Carolina 29464
Telephone (843) 284-5500
Facsimile (843) 284-5501
Email: sfuteral@charlestonlaw.net
Attorney for Plaintiff

Dated: November 9, 2021

CERTIFICATE OF SERVICE

The foregoing document Motion to Reconsider was served on the following by email and U.S. Mail with sufficient postage affixed, this 9 day of November, 2021:

Janet Frisco
203 Cardinal Drive
Summerville, SC 29485
Janetfrisco@yahoo.com



Stephanie M. Smith
Paralegal to Stephan V. Futeral, Esq

Pet Helpers Inc

Janet Frisco

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : Plaintiff Defendant
 or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Janet Frisco is held in Contempt for admitting she violated my Court orders in excess of 80 times. She is committed to the Al Caninas Detention Center for a term of Thirty (30) days and

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$



Janet Frisco

Studied at Whatsamatteru

Lives in Summerville, South Carolina

Animal Rescue



Gardening



Creative Writing



Collection



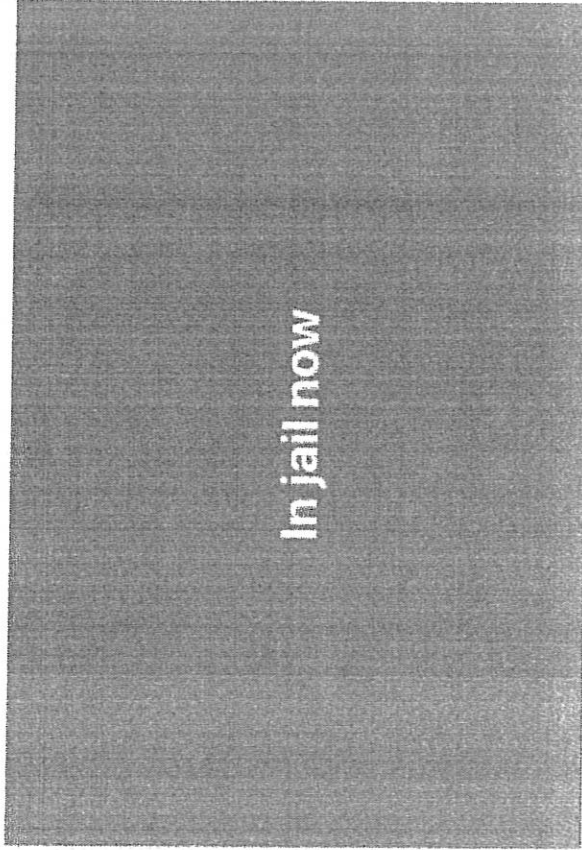
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Add Friend

Message

Janet Frisco

November 5 at 7:25 PM



4 Comments

Like Comment Share



Jud Campbell
#lettobycomehime

Like · Reply · 2d



Ross Best Bail Bond

?

Like · Reply · 2d



Deborah Karafa
Facebook Jail???

Like · Reply · 2d

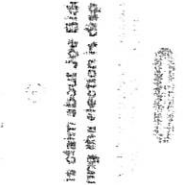
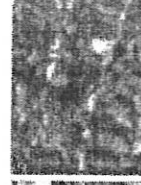


Marina Patricia Fernandes
????

Like · Reply · 1d

Photos

See All Photos



RECEIVED

Jan 12 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Judge Roger M. Young, Sr.,
The Honorable R. Kirk Griffin
and The Honorable Bentley D. Price

Court of Appeals Case No. 2022-000021
Family Court Case No. 2021-CP-10-2682

Pet Helpers, Inc.....Respondent,

v.

Janet L. Frisco.....Appellant.

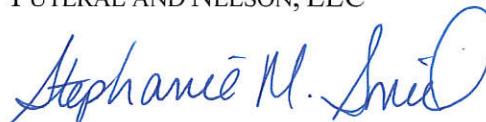
PROOF OF SERVICE

I certify that I have served the Respondent’s *Motion to Dismiss* by delivering the same via email and United States Regular Mail, postage prepaid, on January 12, 2022, addressed to the Appellant as follows:

Janet Frisco
203 Cardinal Drive
Summerville, SC 29485
Janetfrisco@yahoo.com

Respectfully submitted,

FUTERAL AND NELSON, LLC



Stephanie M. Smith
Paralegal to Stephan V. Futeral, Esq.

Dated: January 12, 2022