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Friday, November 14, 2003

*Fax Correspondence to: 334-242-4017*  
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John H. Wilkerson, Jr.  
Clerk, Court of Civil Appeals  
300 Dexter Ave.  
Montgomery, AL 36104

Dear Mr. Wilkerson:

Re: Novak v. Benn  
Case No: 2020466/2020848; Our File No: 01-154

I regret that I must once again contact the Court concerning the blatant failures of Appellant Novak in the above referenced appeal to abide by the service requirements of the Alabama Rules of Civil Procedure as well as this Court's recent November 5, 2003 order. Despite these requirements Appellant Novak has still failed to serve me with Appellant's Reply Brief.

On November 10, 2003 my office received a fax from Appellant Novak in which he copied me with a belated Certificate of Service in this case. The only item received in this fax was the two (2) pages attached. Absent was a copy of the Reply Brief.

The Court should also note the game Appellant Novak is playing with respect to his obligations under the A.R.A.P. In this belated Certificate of Service Appellant Novak claims that he mailed a copy of his Reply Brief on October 24, 2003 to "John Benn, 102 Hiram Street, Sheffield, AL 35660." As the Court will note this is NOT the correct mailing address for my office as recorded in these appellate proceedings or the address noted on any of my filings in this appeal.

The bottom line here is that Appellant Novak has never sent me a copy of his Reply Brief. Since he has failed to abide by the recent Court order specifically directing him to serve me with a copy of his Reply Brief I respectfully suggest that his appeal be dismissed.

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Should you need any specific supporting documentation or affidavit to support any of the above items, please contact me.

Thank you for your time and consideration.

Cordially,

John R. Benn

JRB/gdd

xc: Robert Novak