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Jun 20 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 Bentley D. Price

Court of Appeals Case No. 2022-000775
Circuit Court Case No. 2021-CP-10-2682

Pet Helpers, Inc.....Respondent,

v.

Janet L. Frisco.....Appellant,

v.

Melissa SuskoThird Party Defendant.

RETURN TO MOTION TO STAY SANCTIONS

Respondent and Third Party Defendant moves this Honorable Court, according to Rule 241(d), SCACR, for an Order dismissing Appellant’s Motion to Stay because Appellant failed to make an application for supersedeas to the lower court which issued the appealed order before filing her motion with this Court.

ARGUMENT

- I. UNDER RULE 241(d), SCACR, THIS COURT SHOULD DISMISS THE MOTION BECAUSE APPELLANT FAILED TO MAKE AN APPLICATION FOR AN ORDER FOR SUPERSEDEAS TO THE LOWER COURT WHICH ENTERED THE ORDER ON APPEAL.**

Pursuant to Rule 241(d)(1), SCACR, “[e]xcept where extraordinary circumstances make it impracticable, an application for an order lifting the automatic stay or for supersedeas must first be made to the lower court or administrative tribunal which entered the order or decision on appeal.” (emphasis added). Here, Appellant did not make any application to the lower court that issued the order on appeal. Further, there are no “extraordinary circumstances” that would make an application to the lower court impracticable. Because Appellant has made no application to the lower court before bringing this matter to the Court of Appeals, this Court should dismiss Appellant’s Motion.

CONCLUSION

Because Appellant did not make an application for a supersedeas with the lower court that issued the order on appeal, this Court should dismiss Appellant’s Motion.

Respectfully submitted,

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Dated: June 20, 2022

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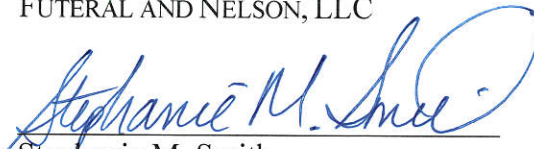
Melissa SuskoThird Party Defendant.

PROOF OF SERVICE

I certify that I have served the *Return to Motion to Stay Sanctions* by delivering the same via email and United States Regular Mail, postage prepaid, on June 20, 2022, addressed to the Appellant as follows:

Janet Frisco
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Janetfrisco@yahoo.com

FUTERAL AND NELSON, LLC



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

Dated: June 20, 2022