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Jun 27 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Robert J. Bonds, Circuit Court Judge

Case No. 2021-CP-07-00482
Appellate Case No. 2022 - 000875

MFM Properties, LLC; and MFM Residential
Properties, LLC,..... Respondents,

v.

Rotunda Land & Development Group, LLC; and
Calloway Title & Escrow, LLC,..... Defendants,

Of Which Rotunda Land & Development Group, LLC, is the.....Appellant.

MOTION TO DISMISS APPEAL

Pursuant to Rule 203(b)(1), SCACR, and Rule 240, SCACR, Respondents move to dismiss the above-captioned for failure to timely serve the notice of appeal. This is an appeal from the Court of Common Pleas. Rule 203(b)(1), SCACR, requires that the notice of appeal from an order issued by the Court of Common Pleas “shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment.” Timely service of the notice of appeal is the essential jurisdictional act. Absent timely service, the appellate courts do not have and cannot acquire appellate jurisdiction over the appeal and must dismiss the appeal. *USAA Prop. & Cas. Ins. Co. v. Clegg*, 661 S.E.2d 791, 794-795 (S.C. 2008); *accord Wells Fargo Bank, N.A. v.*

Fallon Props. S.C., LLC, 776 S.E.2d 575, 577-578 (S.C. App. 2015), *aff'd as modified on other grounds*, 810 S.E.2d 856 (S.C. 2018).

Here, Appellant admits receiving written notice of the entry of the appealed order on May 23, 2022. (See Notice of Appeal). Thus, the deadline for serving the notice of appeal was June 22, 2022. Appellant did not serve the notice of appeal until June 23, 2022. (See Proof of Service attached to Notice of Appeal). Accordingly, the appeal is untimely and must be dismissed.

Respectfully submitted,

Dated: June 27, 2022

BURR & FORMAN LLP

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Of Which Rotunda Land & Development Group, LLC, is the Appellant.

PROOF OF SERVICE

I, Valerie Hampton, an employee of Burr & Forman LLP, hereby certify that a true and correct copy of the Motion to Dismiss Appeal was served upon counsel for the Appellant in the above-captioned matter via email at the email addresses shown below, this 27th day of June, 2022, as follows:

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s/ Valerie N. Hampton
