

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

R. Markley Dennis, Jr. Circuit Court Judge  
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Appellate Case No. 2018-001766

Charleston Development Company, LLC, Charleston Housing Company, LLC and  
NotSo Hostel, LLC,

Appellants,

v.

Younesse Alami, Simon M. Adell, Matthew Anderson, Matthew Asher, Daniel Baker, Marie Baker, Matthew and Christina Bare, Andre Bauer, Peter Bierce, Brandon Blount, Barbara Brass, Richard T. Brewer, Sigrid Anne Eilertson, Reginald P. Brown IV, Mary Cahill, Ryan Cockrell, Kevin and Virginia Conlon, Anne Marie Crevar, Christina Cross, Darryl J. Damico, Labar Daniel, Stephen Darwak, Lindsay Davenport, Mary Dickerson, Maxwell Streeter, Kathleen Dougherty, David Dressman, Anna Dressman, Michael Elder, Christopher Scott Farley, Michele Ghastin, Timnah Giller, Virginia Geller, Ryan Gilreath, Sonya Gilreath, Kimberly Glenn, Shaun Halsor, Josephine Rex, Arthur Halvorson, Andrew Halvorson, Linda Hancock, Laura Hyatt, Mike Hartel, Nathan Herring, James Hicks, Jr., Laurie Hicks, Preston G. Hipp, Colin Jones, Matthew F. Jones, Robert C. Jones, Robin Joseph, Molly Keeler, John Kenny, Mandi Walters, Abigail King, Aaron Kless, Laurie Kramer, Robert Kramer, Allison Kreutzer, Benjamin Levitt, Richard Levitt, Jesse Lutz, Nikou Manouchehri, Thomas Naselaris, Zoe Naselaris, Beau O'Steen, Cori O'Steen, Lance Parr, Brandon Perdue, Amanda Lee Raymer, Hadassah Rothenberg, Daniel Ryan, Kimberly Bowlin, Kevin Schnittker, Ginger Scofield, Inderjit Singh, Avtar Singh, Alecia Stevens, Lee Stevens, Justin Swan, Merrick Teichman, John Van Vlack, Jr., William Waterhouse, Jennifer Waterhouse, Anne Wohlfeil, Bryan Young, AJB Trust, Anthony & Jacqueline Bradley, Trustees, Hartshorn Family Trust, Helene Kenny / Bridget Denny Revocable Trust, Wilhelmina M. Wieters Life Estate Childrens Trust, 33 Bogard Street LLC, 249 Cumming, LLC, 253 Coming Street LLC, 259 East Bay LLC, 259 East Bay 10 B LLC, 272 D Coming St. LLC, Café International, Inc., Corner At Old Canton, LLC, Geer Interests LLC, Kit Properties LLC, Lambert-Weiss LLC, The Naws LLC, New Lease Capital LLC, One Henrietta LLC, Periwinkle Partners, LLC, Porch Properties LLC, Westbury Properties, LLC, and Westendorff Hardware LLC,

Of whom,

Younesse Alami, Simon M. Adell, Matthew Anderson, Matthew Asher, Andre Bauer, Peter Bierce, Brandon Blount, Reginald P. Brown IV, Mary Cahill, Ryan Cockrell, Kevin and Virginia Conlon, Anne Marie Crevar, Darryl J. Damico, Stephen Darwak, Lindsay Davenport, Kathleen Dougherty, David Dressman, Anna Dressman, Michael Elder, Christopher Scott Farley, Michele Ghastin, Ryan Gilreath, Sonya. Gilreath, Shaun Halsor, Josephine Rex, Laura Hyatt, Nathan Herring, James Hicks, Jr., Laurie Hicks, Preston G. Hipp, Colin Jones, Matthew F. Jones, Robert C. Jones, Robin Joseph, Molly Keeler, John Kenny, Abigail King, Aaron Kless, Laurie Kramer, Robert Kramer, Allison Kreutzer, Jesse Lutz, Thomas Naselaris, Zoe Naselaris, Beau O'Steen, Cori O'Steen, Lance Parr, Brandon Perdue, Hadassah Rothenberg, Daniel Ryan, Kimberly Bowlin, Kevin Schnittker, Ginger Scofield, Alecia Stevens, Justin Swan, Merrick Teichman, John Van Vlacic, Jr., William Waterhouse, Jennifer Waterhouse, Anne Wohlfeil, Bryan Young, Helene Kenny / Bridget Denny Revocable Trust, 259 East Bay LLC, 259 East Bay 10 B LLC, Corner At Old Canton, LLC, Kit Properties LLC, The Naws LLC, One Henrietta LLC, Periwinkle Partners, LLC, Porch Properties LLC, Westbury Properties, LLC, and Westendorff Hardware LLC, are

Respondents.

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**MOTION TO FILE AMENDED MOTION FOR  
ATTORNEY'S FEES OUT OF TIME**

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COMES NOW DAVID B. MARVEL, undersigned counsel for Respondents Matthew Asher, Anne Marie Crevar, Stephen Darwak, and Ann Wohlfeil, through undersigned counsel, (the "Respondents"), pursuant to Rule 263(b) of the South Carolina Appellate Court Rules, who hereby respectfully requests this Court of Appeals to permit the Respondents to file an Amended Motion for Attorney's Fees including a Notarized Itemized Statement of Costs in the above-captioned appeal, out of time.

Respondents' Motion for Attorneys' fees was filed on March 23, 2023. The Motion did not include a Notarized Statement of Costs because Rule 220(d), SCACR, only appears to require a notarized statement "[i]f costs are being sought under [Rule 220](b) above", and Respondents' Motion sought only Attorney's Fees, not costs. Further, respondent's original Motion for

Attorney's Fees affirmatively stated that affirmatively stated "[t]he undersigned did not incur costs on appeal as set forth in Rule 220(b)(1)-(5) that were separate and distinct from the costs incurred by counsel for other Respondents, and therefore only seeks an Order awarding attorney's fees". Under the plain language of Rule 220(d), a notarized statement did not appear necessary under such circumstances.

Further, the undersigned was not actually aware that the Court had issued a Deficiency Letter on the matter until he received Appellant's Motion for Leave to File their Return out of time, which referenced the fact that no response to the deficiency letter had been filed. Upon reviewing his electronic records, the undersigned discovered that he was sent, and did receive, the email transmitted by the Clerk of Court's office on March 24, 2023 which appears in the C-Track system. The undersigned was in trial before the USOALJ on March 24 and, unfortunately, that email was mistaken for an email confirming receipt of filings by other parties, many of which were received between March 22nd and 24th. It does not appear from the record that the deficiency letter was transmitted by U.S. Mail, and no such transmission has been received.

In the undersigned's experience, the Clerk's office would transmit correspondence directed to a single party in the manner including all addresses for that counsel which are included in the AIS system, such as the email attached hereto which included a clocked copy of the actual Motion for Costs. In that email, the second "Court Email" address is an address that was created so both the undersigned and his staff would receive copies of email correspondence sent through the state and federal court E-File systems. If that address had been copied on the deficiency letter, it would have been noted, processed, and calendared accordingly.

Rule 263(b) does not state an explicit standard for extending time either before or after a deadline. Regardless, respondents believe that these circumstances constitute excusable neglect,

and therefore satisfy a good cause standard for allowing the filing of an Amended Motion out of Time. Therefore, Respondents respectfully request this Court of Appeals to grant this motion to file an Amended Motion including an Itemized Statement of Costs out of time.

RESPECTFULLY SUBMITTED:

/s/ David B. Marvel

David B. Marvel (SCB#68803)

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*Attorney for Matthew Asher, Anne Marie Crevar,  
Stephen Darwak, and Ann Wohlfeil*

April 11, 2023

Charleston, South Carolina

## David B. Marvel

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**From:** Court Of Appeals Filings <ctappfilings@sccourts.org>  
**Sent:** Thursday, March 23, 2023 3:56 PM  
**To:** David B. Marvel; Court email  
**Cc:** Court Of Appeals Filings  
**Subject:** Charleston Development v. Younesse Alami 2018-001766  
**Attachments:** Charleston v. Alami - Amended POS.pdf

Dear Counsel:

The Court has received your filing. A stamped copy is attached for your records.

Thank you.

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

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Apr 12 2023

SC Court of Appeals

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APPEAL FROM CHARLESTON  
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Respondents.

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PROOF OF SERVICE

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I hereby certify that on April 11, 2023, I served a copy of Respondent's Motion to File Amended Motion for Attorney's Fees on all counsel of record, via email.

/s/ David B. Marvel  
David B. Marvel  
*Attorney for Matthew Asher, Anne Marie Crevar,  
Stephen Darwak, and Ann Wohlfeil*