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Apr 25 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

Maite D. Murphy, Circuit Court Judge

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Civil Action No.: 2012-CP-18-1227

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Innovative Waste Management Inc., Crest Energy Partners,  
LP, Edward Girardeau, Plaintiffs, Of Whom,

Innovative Waste Management, Inc. is the Respondent\,

v.

Crest Energy Partners, GP, LLC, Dunhill Products GP, LLC,  
Henry Wuertz, Innovative Waste Management, Inc., Crest  
Energy Partners LP, Dunhill Products LP, Edward H.  
Girardeau, C. Russ Lloyd, Defendants, Of Whom,

Crest Energy Partners GP, LLC, Dunhill Products GP, LLC,  
Crest Energy Partners LP, Dunhill Products, LP, and Henry  
Wuertz, are the Respondents.

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**AMENDED MOTION FOR EXTENSION OF TIME  
TO FILE PETITION FOR REHEARING**

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COMES NOW DEFENDANTS / APPELLANTS Crest Energy Partners GP, LLC,  
Crest Energy Partners LP, Dunhill Products GP, LLC, Dunhill Products, LP, and Henry  
Wuertz, through undersigned counsel, who hereby respectfully modify their prior request

for an extension of time to file their Petition for Rehearing, pursuant to Rule 263(b), SCACR.

The original Motion requested an extension of time requested a 10-day extension of time to April 24, 2023. However, two days after the filing of the Motion, the Clerk of Court issued the remittitur in this matter, apparently as a result of a time delay between the e-filing system and the formal docket of the Court. On April 18, 2023, the Clerk issued an Order to the Dorchester County Clerk of Court recalling the remittitur. It does not appear from the C-Track case management system that the circuit court has returned this remittitur to this Court.

It appears from the few available opinions on the subject that the appellate court loses jurisdiction when the remittitur has been sent. Thereafter, no motions may be entertained such as the pending Motion for Extension of Time or the Petition for Rehearing that Appellants intend to file. Appellants have further concern that a Petition for Rehearing filed during a period when the Court lacks jurisdiction would not be effective for the Court to retain jurisdiction after it is restored. While the Court's jurisdiction may be regained by a recall of the remittitur, it would seem that jurisdiction would only be revived upon the receipt of the document recalled. See State v. Barnes, 413 S.C. 1, 4, 774 S.E.2d 454, 456 (2015); Wise v. S.C. Dep't of Corr., 372 S.C. 173, 174, 642 S.E.2d 551, 551 (2007).

Therefore, Appellants hereby Amend their Motion for Extension of Time to File their Petition for Rehearing, respectfully requesting that the Court give Notice to all parties when the recalled Remittitur is received by the Court of Appeals, and GRANTING this motion to allow Appellants an extension of time through the second business day following transmission of the Clerk's Notice to the parties via email.

For these reasons, Appellants respectfully request that this Honorable Court GRANT this motion for extension of time, pursuant to Rule 263(b), SCACR.

RESPECTFULLY SUBMITTED:

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ATTORNEY FOR THE APPELLANTS

April 25, 2023  
Charleston, South Carolina

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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**SC Court of Appeals**

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas  
Maite D. Murphy, Circuit Court Judge

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Case No. 2019-001719

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Innovative Waste Management Inc., Respondent,

v.

Crest Energy Partners, GP, LLC, Dunhill Products GP, LLC, Henry Wuertz, Innovative Waste Management, Inc., Crest Energy Partners LP, Dunhill Products LP, Edward H. Girardeau, C. Russ Lloyd, Defendants, Of Whom,

Crest Energy Partners GP, LLC, Crest Energy Partners LP, Dunhill Products, LP, and Henry Wuertz, are the Appellants.

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**PROOF OF SERVICE**

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I hereby certify that the Appellants' Amended Motion for Extension of Time to file Petition for Rehearing was served upon Counsel for the Respondent, Wm. Michael Gruenloh, 63 Moultrie Street, Second Floor, Charleston SC 29403, by U.S. Mail this 25<sup>th</sup> day of April in accordance with the Orders of the South Carolina Supreme Court and the South Carolina Appellate Court Rules.

RESPECTFULLY SUBMITTED:

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April 25, 2023  
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