

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

**RECEIVED**

FEB 22 2012

**SC Court of Appeals**

Case No. 2009-CP-46-2671

Ida Lord.....Plaintiff/Appellant

v.

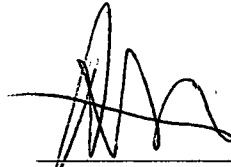
D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

NOTICE OF APPEAL

Appellant, Ida Lord (Lord), appeals the Order signed by the Honorable John C. Hayes on October 26, 2012, which granted summary judgment to the Respondent, D&J Enterprises, Inc, d/b/a Cash on the Spot (D&J). Appellant received written notice of entry of the Order signed October 26, 2011 on October 28, 2011. On November 7, 2011, Appellant timely filed and served a Motion to Alter or Amend and for Reconsideration of the Order signed October 26, 2011. By Order signed January 30, 2012, the Honorable John C. Hayes, III denied Appellant's Motion to Alter or Amend and for Reconsideration. Appellant received written notice of the entry of the Order signed on January 30, 2012 on February 3, 2012. Appellants also appeal the Order signed January 30, 2012. Copies of both Orders appealed from are attached.

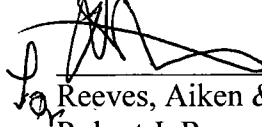
February 21, 2012

(SIGNATURE AND OTHER COUNSEL OF RECORD ON FOLLOWING PAGE)



---

Arthur K. Aiken  
Reeves, Aiken & Hightower, LLP  
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Columbia, SC 29205  
Telephone: 803-799-5205  
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ATTORNEY FOR APPELLANT



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ATTORNEY FOR APPELLANT

**OTHER COUNSEL OF RECORD:**

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Rock Hill, SC 29732  
ATTORNEY FOR RESPONDENT

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

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FEB 22 2012  
SC Court of Appeals

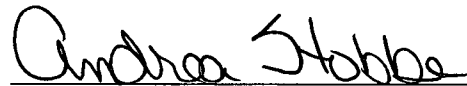
Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on all parties by mailing a copy of the Notice of Appeal to each attorney of record: Leland B. Greeley, Leland B. Greeley, PA, PO Box 2981, Rock Hill, SC 29732 on February 21, 2012.



Andrea Stobbe, Paralegal  
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K. AIKEN +  
BEA HIGHTOWER +  
GREGORY D. SPINK +  
J. TYLER BURNS +



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PLEASE REPLY TO:

February 21, 2012

The Honorable Tonya Gee  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

**RECEIVED**

FEB 22 2012

**SC Court of Appeals**

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
CA No: NOT YET ASSIGNED  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed for filing please find the original and three (3) copies of the Notice of Appeal with attached Proof of Service in the above-referenced matter. Please return the date-stamped copies to me in the enclosed, self-addressed, stamped envelope at your earliest convenience.

By copy of this letter I am serving a copy of the Notice of Appeal on all attorneys of record in this matter.

Please do not hesitate to contact me if you have any questions or need anything further.

Thank you for your assistance in this matter.

Sincerely,

Andrea Stobbe  
Paralegal for Reeves, Aiken and Hightower  
[andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

Enclosures

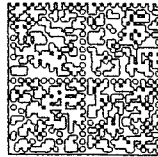
cc: Leland B. Greeley  
York County Clerk of Court  
Ida Lord

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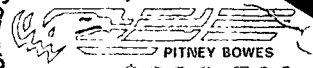
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STATE OF SOUTH CAROLINA )  
 COUNTY OF YORK )  
 )  
 Ida Lord, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 D & J Enterprises, Inc. d/b/a )  
 Cash on the Spot. )  
 )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 SIXTEENTH JUDICIAL CIRCUIT  
 YORK COUNTY, SOUTH CAROLINA  
**ORDER GRANTING SUMMARY  
 JUDGMENT TO DEFENDANT**

DAVID HAMILTON  
 C.C.P. & G.S.  
 YORK COUNTY, SC  
 2011 OCT 27 PM 3:00  
 FILED-RECEIVED

C.A. No.: 09-CP-46-261<sup>2671</sup>

D & J Enterprises, d/b/a Cash on the Spot, filed a motion to dismiss and for summary judgment. Both Defendant and Plaintiff filed memorandums in support of their positions on the issues. The motion was heard before this Court on Monday, August 29, 2011. Both parties were represented by counsel.

At the beginning of the hearing both parties agreed that this Court, in reaching its ruling, could consider evidence outside the pleadings pursuant to Rule 56 of the South Carolina Rules of Civil Procedure.

Cash on the Spot, located on the corner of Highway 901 and South Cherry Road in the County of York, is a business for cashing checks, providing loans, and also offers the service of wiring money. On February 14, 2008, during regular business hours, the Plaintiff entered the premises to conduct business. While in the business, a male person was seated at a table appearing to be filling out paperwork for a wire transfer. As Ms. Lord walked past the table and approached the window, the male stood, reached under his clothing, pulled out a pistol, and immediately shot Ms. Lord in the head. The male then fled the premises. The incident, which was captured on the business's security video,

*[Handwritten signature]*

lasted approximately six seconds. Due to the video, law enforcement was able to identify the male by DNA taken from a pen he had put in his mouth at the table.

Phillip Watts was subsequently arrested, and on May 15, 2008, he was indicted by the York County Grand Jury for the crime of Assault and Battery with Intent to Kill against Ms. Lord, and also Possession of a Firearm during the Commission of a Violent Offense. On April 27, 2009, prior to the filing of this action, Watts plead guilty but mentally ill to the indicted charges and was sentenced by South Carolina Circuit Judge Lee Alford to a term of life without parole with the South Carolina Department of Corrections.

#### DISCUSSION

Summary judgment is appropriate when it is clear that there are no genuine issues of material fact, and the moving party is entitled to judgment as a matter of law. *City of Columbia v. A.C.L.U.*, 323 S.C. 384, 386, 475 S.E.2d 747, 748 (1996). In ruling on a motion for summary judgment, the evidence and the inferences that can be drawn therefrom should be viewed in the light most favorable to the nonmoving party. *Café Assocs. v. Gerngross*, 305 S.C. 6, 9, 406 S.E.2d 162, 164 (1991).

In the present case, D & J Enterprises, doing business as Cash on the Spot, is a corporation in the business of offering check cashing, pay day lending, Western Union money transfers, and selling money orders. Thus, on the day of the incident, Cash on the Spot was a merchant.

At the time of the criminal act at issue, the law governing the scope of the duty of merchants to protect invitees against criminal acts of third parties in South Carolina was governed by Miletic v. Wal-Mart Stores, Inc., 339 S.C. 327, 529 S.E.2d 68 (S.C. App.

*J. H. 2*

2000), *citing* Shipes v. Piggly Wiggly St. Andrews, Inc. 269 S.C. 479, 484, 238 S.E.2d

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167, 169 (1977). Since the hearing in this matter, however, the South Carolina Supreme Court has issued Bass v. Gopal, Inc., Op. No. 27054 (October 10, 2011). In Gopal, the Court abandoned the imminent harm test and adopted the balancing approach previously discussed in Miletic. It should be noted, however, that in Gopal the Supreme Court explicitly stated that their holding neither created a new duty nor altered the duty that existed previously.<sup>1</sup> Although the court believes that Gopal applies prospectively, the undersigned has analyzed the facts of this case under both Shipes and Gopal.

### 1. Shipes - Imminent Harm Test

Prior to the issuance of Gopal, South Carolina followed what is known as the imminent harm test. The imminent harm test, adopted by the Supreme Court in Shipes, holds that "[u]nder South Carolina law, a merchant or restaurant owner is not charged with the duty of protecting its customer against criminal acts of third parties when it did not know or have reason to know that such acts were occurring or about to occur." Id. at 330, 529 S.E.2d at 69, *citing* Callen v. Cale Yarborough Enterprises, 314 S.C. 204, 206, 442 S.E.2d 216, 218 (Ct. App. 1994). "In order to establish a duty under this approach, a plaintiff must demonstrate a landowner or merchant is aware of the specific imminent harm about to befall him or her." Id. at 331.

Plaintiff asserts that because Mr. Starnes, President of D&J Enterprises, was aware of Mr. Watts' previous crimes and warned his employees that "a madman was on the loose," D&J Enterprises was aware of the specific imminent harm about to befall Mrs. Lord, and, therefore, had a duty to protect her. The court disagrees.

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1. "Indeed, our courts have consistently imposed a duty on business owners to employ reasonable measures to protect invitees from foreseeable harm. . . . In adopting a balancing approach, we do not alter this duty . . ." Gopal, pg. 6 of 9.

jc 7/14/17

There is no evidence before the court that Defendant had reason to know or knew

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of the specific imminent harm about to befall Ms. Lord. As a preliminary matter, there is no history of criminal acts occurring on the premises of Cash on the Spot. Furthermore, Cash on the Spot had a security video operating at the time of the shooting. The video captured the shooting of Ms. Lord, as well as the moments leading up to the shooting. In the video, Mr. Watts was seated at the Western Union document table, posing as a customer in the ordinary course of business. When Ms. Lord approached the clerk's window, Watts casually got up from his seat, walked up behind Ms. Lord, as if he too were approaching the window after her, suddenly grabbed her around the neck from behind, pulled a pistol from his belt, and shot her in the head. Less than six seconds elapsed from the time he grabbed Ms. Lord around the throat to the time he left the building. At no time prior to Mr. Watts grabbing Ms. Lord was there any out of the ordinary behavior that would have put either Ms. Lord, or Ms. Boyd behind the counter, on notice that Mr. Watts was about to shoot Ms. Lord. Counsel for Plaintiff concurred with the facts as shown on the video and stated by Mr. Greeley at the hearing.

The court finds that Defendant did not know or have reason to know of the specific imminent harm about to befall Mr. Lord. Therefore, under the imminent harm test, Defendant had no duty to protect Ms. Lord from the criminal actions of Mr. Watts.

## 2. Gopal - Balancing Test

In Gopal, the South Carolina Supreme Court adopted the balancing test originally formulated by the California Supreme Court in Ann M. v. Pacific Plaza Shopping Ctr., 863 P.2d 207 (1993), and since adopted by the Supreme Court of Tennessee in McClung v. Delta Square Limited Partnership, 937 S.W.2d 891 (Tenn. 1996). The balancing

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approach “seeks to balance the degree of foreseeability of harm against the burden of the duty imposed.” Id. at 901. “The more foreseeable a crime, the more onerous is a business owner’s burden of providing security.” Id. Under this approach, “the presence or absence of prior criminal incidents is a significant factor in determining the amount of security required of a business owner, but their absence does not foreclose the duty to provide some level of security if other factors support a heightened risk.” Id.

Applying the Gopal balancing test to the evidence in this case, the court must determine (1) if the crime was foreseeable, and (2) given the foreseeability of the criminal act, determine whether Defendant’s security measures were reasonable.

As a preliminary matter, the court finds that Defendant’s knowledge of two prior armed robberies, both involving shootings and occurring at two distant and unrelated locations across the County, is not sufficient to make the occurrence of a third crime, at an unrelated location, foreseeable. However, the deposition testimony of Darrell Starnes, owner of D&J Enterprises, clearly indicates that Defendant actually did foresee the possibility of a third criminal act, and even warned his employees “to be on their toes, to look for suspicious people” because “there was a madman . . . on the loose.” The court recognizes that Mr. Starnes was acting in good faith to protect his employees from an improbable, but potentially serious, criminal act. Of course, the court cannot determine that the crime was not foreseeable when the Defendant did in fact foresee the possibility of the crime which later occurred. Therefore, the undersigned finds that the Plaintiff has produced at least a scintilla of evidence that the crime was foreseeable.

Once evidence of foreseeability is established, the court must next determine whether Plaintiff has provided any evidence that the security measures taken by the

*Handwritten signature and date: 12/14/15*

Defendant were unreasonable given the risk. Here, as in Gopal, Plaintiffs contend that

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the appropriate security measure would have been to place a security guard at the entrance of Cash on the Spot. Plaintiff submitted, via affidavit, the following opinions of its expert, Robert M. Clark:

1. . . . D&J had a duty, in the exercise of reasonable care, to post a security guard at the entrance to [Cash on the Spot] to provide reasonable protection for its employees and customers against the threat of a serial armed robber who had shot two store clerks and a bystander in two previous armed robberies of businesses.
2. The armed robbery attempt during which Ida Lord was shot most probably would not have occurred if D&J had posted a security guard at the entrance [Cash on the Spot].

Plaintiff's expert appears to base the foregoing conclusion on the following facts: 1) Two prior armed robberies, both involving shootings, occurred in York County on January 28 and February 5, 2008; 2) D&J was aware of both armed robberies/shootings; 3) D&J had previously installed bullet-proof glass, cameras, and panic buttons to protect its clerks and deter criminal acts; and 4) D&J, like the two previous businesses which were robbed, was a small business that has cash on hand and is usually manned by one or two employees.

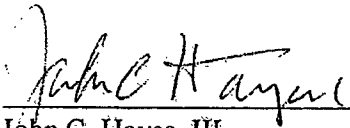
In Gopal, the Supreme Court found that "the hiring of security personnel is a significant economic burden. Considering a business's economic interest, it is difficult to imagine an instance where a business would be required to employ costly security guards in the absence of evidence of prior crimes on the premises." The facts of this case are no exception. There is no evidence of prior crimes on the premises of Cash on the Spot. Therefore, if the rationale of the Plaintiff is taken to its logical conclusion, every business in York County that was manned by one or two people and had cash on hand had a legal

*JCH*

duty to hire a security guard from February 5 onward, either until the assailant was caught or to some unknown time in the future when the threat was no longer imminent. Imposing such a heavy burden on small businesses, based on these facts, is both unreasonable and economically unfeasible.

Viewing the facts in the light most favorable to Ms. Lord, D&J Enterprises, doing business as Cash on the Spot, did not have a duty to hire a security guard, and the security measures that were implemented by D&J Enterprises were reasonable.

IT IS ORDERED that Defendant's motion for summary judgment is GRANTED

  
\_\_\_\_\_  
John C. Hayes, III  
Circuit Court Judge #7  
Sixteenth Judicial Circuit

York, South Carolina

10/26, 2011.

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS )  
SIXTEENTH JUDICIAL CIRCUIT )

Ida Lord, )

Case No. 09-CP-46-2671 )

Plaintiffs, )

**ORDER**

v. )

D & J Enterprises, Inc. d/b/a )  
Cash on the Spot. )

Defendant. )

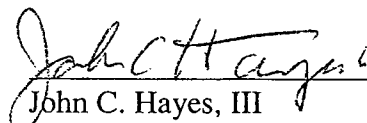
DAVID HAMILTON  
C.C.P. & GS  
YORK COUNTY, SC

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This matter concerns this Courts Order, issued October 26<sup>th</sup>, 2011, granting Summary Judgment for the Defendant. Plaintiff Ida Lord filed a Motion to Alter and Amend and for Reconsideration, but did not comply with Rule 59(g), SCRCPP. The motion was heard before this Court on Wednesday, January 18, 2011. Both parties were represented by counsel.

As Plaintiff has failed to comply with Rule 59(g), her Motion is DENIED.

IT IS SO ORDERED.

  
\_\_\_\_\_  
John C. Hayes, III  
Circuit Court Judge  
Sixteenth Judicial Circuit

York, South Carolina

January 30<sup>th</sup>, 2011.

ROBERT J. REEVES \*\*  
ARTHUR K. AIKEN \*\*  
A. BEA HIGHTOWER +  
GREGORY D. SPINK +  
J. TYLER BURNS +



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PLEASE REPLY TO:

February 24, 2012

Wanda Nelson, CVR  
P.O. Box 749  
York, SC 29745-1662

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FEB 28 2012

**SC Court of Appeals**

Re: Ida Lord v. D&J Enterprises, Inc. d/b/a Cash on the Spot  
C/A No: NOT YET ASSIGNED  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Nelson:

This firm represents Ida Lord in the above referenced matter. I am writing to request a copy of the transcripts from the Motion for Summary Judgment Hearing dated August 29, 2011 and the Motion to Alter or Amend and for Reconsideration dated January 18, 2011, with the Honorable John C. Hayes, III presiding over both hearings.

Please forward me a copy of the transcript along with your invoice at your earliest convenience.

By copy of this letter I am notifying opposing counsel.

Thank you for your assistance in this matter. Please do not hesitate to contact me if you have any questions or need anything further.

Sincerely,

*Andrea Stobbe*

Andrea Stobbe, RP  
Paralegal for Reeves, Aiken and Hightower, LLP  
andrea@aikenandhightower.com

cc: Leeland B. Greeley  
South Carolina Court of Appeals  
Ida Lord

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# The South Carolina Court of Appeals

TANYA A. GEE  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
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FAX: (803) 734-1839  
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March 5, 2012

Arthur K. Aiken, Esquire  
Reeves, Aiken & Hightower, LLP  
2231 Devine St  
Suite 201  
Columbia, SC 29205

Robert J. Reeves, Esquire  
Reeves, Aiken & Hightowner  
Baxter Commerce Center, 2d fl.  
1012 Market St./Ste 205  
Fort Mill, SC 29708

Re: Lord, Ida v. D&J Enterprises, Inc.  
Case Tracking #: 2012208267

Dear Counsel:

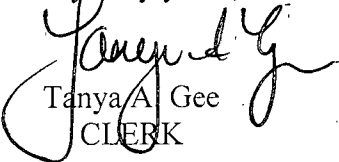
We have received your Notice of Appeal in the case noted above. This case will be docketed in the Court of Appeals and all communications concerning this case, including motions and petitions, initial and final briefs, and the Record on Appeal, should be directed to and filed in this Court. Failure to file in the proper court may result in the dismissal of your appeal. For all filings, please note the requirements of Rule 267(a) of the South Carolina Appellate Court Rules, and be further advised that Court of Appeals policy requires the bar number and firm name of any counsel shown must be included in his or her address.

PLEASE BE ADVISED that, pursuant to Rule 207 of the South Carolina Appellate Court Rules, the transcript must be ordered within 10 days of the proof of service of the Notice of Appeal and you must provide this Court, opposing counsel, and the Office of Court Administration with all correspondence regarding the transcript. It is also Appellant's

responsibility to make satisfactory arrangements (including agreement regarding payment for the transcript) with the Court Reporter for furnishing the transcript. You are reminded of the notification requirements of Rule 207(a)(5), SCACR, also, please advise the Court in writing upon receipt of the transcript.

I further wish to call the attention of the parties to the attached order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,

  
Tanya A. Gee  
CLERK

TAG/ec

cc: Leland B. Greeley, Esquire  
The Honorable David Hamilton

ROBERT J. REEVES ♦♦  
ARTHUR K. AIKEN ♦♦  
A. BEA HIGHTOWER +  
GREGORY D. SPINK ♦  
J. TYLER BURNS +



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April 26, 2012

The Honorable Tonya Gee  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
CA No: 2012208267  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed for filing please find the original and three copies of the Appellant's Motion for Extension of Time to File Appellant's Initial Brief and Appellant's Designation of Matter in the above-referenced matter. Please return the date-stamped copies to me in the enclosed, self-addressed, stamped envelope at your earliest convenience.

Also enclosed please find our firm's check in the amount of \$25.00 to cover the filing fee.

Please do not hesitate to contact me if you have any questions or need anything further.

Sincerely,

Andrea Stobbe  
Paralegal for Reeves, Aiken and Hightower  
[andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

Enclosures

cc: Leland B. Greeley  
York County Clerk of Court  
Ida Lord

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APR 30 2012

**SC Court of Appeals**

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THE STATE OF SOUTH CAROLINA  
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John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

Ida Lord.....Plaintiff/Appellant

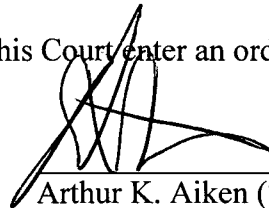
v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

MOTION FOR EXTENSION OF TIME

The Appellant, Ida Lord, hereby moves, in accordance with Rule 224 SCACR, for a thirty (30) day extension of time to file and serve her initial brief and designation of matter. These filings are now due on April 30, 2012. This extension will make these filings due on or before May 30, 2012. The reasons supporting this extension are set forth on the attached Affidavit of the Appellant's attorney, Arthur K. Aiken.

WHEREFORE, the Appellant prays that this Court enter an order granting this extension.



Arthur K. Aiken (SC Bar No. 12983)  
Robert J. Reeves  
Reeves, Aiken & Hightower, LLP  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
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Email: art@aikenandhightower.com  
ATTORNEYS FOR APPELLANTS

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APR 30 2012

April 26, 2012  
Columbia, SC

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
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APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

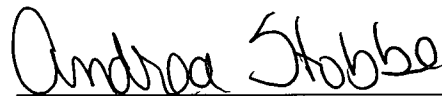
Ida Lord.....Plaintiff/Appellant

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D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

PROOF OF SERVICE

I certify that I have served the Appellant's Motion for Extension of Time to File Initial Brief and Designation of Matter on Respondent's counsel by mailing a copy of the above to Leland B. Greeley, Leland B. Greeley. PA, PO Box 2981, Rock Hill, SC 29732 on April 26, 2012.



Andrea Stobbe, Paralegal  
Reeves, Aiken & Hightower, PA  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: andrea@aikenandhightower.com

**RECEIVED**  
APR 30 2012  
SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

AFFIDAVIT OF ARTHUR K. AIKEN

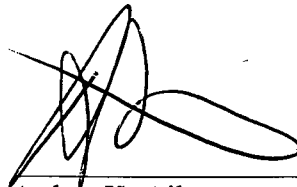
The undersigned, Arthur K. Aiken, personally appearing before me and having been duly sworn, deposes and says:

1. I am the attorney for the Appellant in the above captioned case.
2. My client's designation of matter and initial brief are now due on April 30, 2012.
3. I find myself unable to meet this deadline because of trial preparation obligations and trial schedules.
4. There have been no prior deadline extensions in this appeal.
6. I request that this Court grant me a thirty (30) day extension to make the above filings.

FURTHER YOUR AFFIANT SAYETH NAUGHT

[NOTARY BLOCK AND SIGNATURE ON THE FOLLOWING PAGE]

**RECEIVED**  
APR 30 2012  
**SC Court of Appeals**



Arthur K. Aiken

SWORN to and SUBSCRIBED before me this

\_\_\_\_ day of \_\_\_\_\_, 2012

\_\_\_\_\_  
Notary Public for South Carolina

My Commission Expires: \_\_\_\_\_

ROBERT J. REEVES +  
ARTHUR K. AIKEN +  
A. BEA HIGHTOWER +  
GREGORY D. SPINK +  
J. TYLER BURNS +



**Reeves, Aiken & Hightower LLP**  
INJURY AND CRIMINAL ATTORNEYS

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PLEASE REPLY TO:

\*Licensed in SC \*Licensed in NC

May 30, 2012

The Honorable Tonya Gee  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

**RECEIVED**  
MAY 31 2012  
SC Court of Appeals

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
CA No: 2012208267  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed for filing please find the original and eight copies of the Appellant's Motion for Extension of Time to File Appellant's Initial Brief and Appellant's Designation of Matter in the above-referenced matter. Please return the date-stamped copies to me in the enclosed, self-addressed, stamped envelope at your earliest convenience.

Also enclosed please find our firm's check in the amount of \$25.00 to cover the filing fee.

Please do not hesitate to contact me if you have any questions or need anything further.

Sincerely,

Andrea Stobbe  
Paralegal for Reeves, Aiken and Hightower  
[andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

Enclosures

cc: Leland B. Greeley

OFFICES

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BAXTER COMMERCE CENTER, 2ND FLOOR  
1012 MARKET ST., SUITE 205  
FORT MILL, SC 29708

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CHARLOTTE, NC 28204

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2231 DEVINE STREET, SUITE 201  
COLUMBIA, SC 29205

64400

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

**RECEIVED**  
MAY 31 2012  
SC Court of Appeals

Ida Lord.....Plaintiff/Appellant

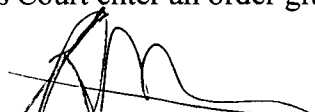
v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

MOTION FOR EXTENSION OF TIME

The Appellant, Ida Lord, hereby moves, in accordance with Rule 224 SCACR, for a twelve (12) day extension of time to file and serve her initial brief and designation of matter. These filings are now due on May 30, 2012. This extension will make these filings due on or before June 11, 2012. The reasons supporting this extension are set forth on the attached Affidavit of the Appellant's attorney, Arthur K. Aiken.

WHEREFORE, the Appellant prays that this Court enter an order granting this extension.

  
\_\_\_\_\_  
Arthur K. Aiken (SC Bar No. 12983)  
Robert J. Reeves  
Reeves, Aiken & Hightower, LLP  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: art@aikenandhightower.com  
ATTORNEYS FOR APPELLANTS

May 30, 2012  
Columbia, SC

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

---

Case No. 2009-CP-46-2671

---

Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

---

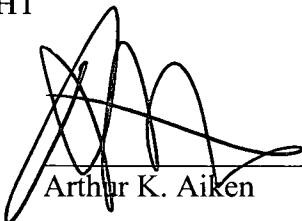
AFFIDAVIT OF ARTHUR K. AIKEN

---

The undersigned, Arthur K. Aiken, personally appearing before me and having been duly sworn, deposes and says:

1. I am the attorney for the Appellant in the above captioned case.
2. My client's designation of matter and initial brief are now due on May 30, 2012.
3. I find myself unable to meet this deadline because of an illness that kept me out of work for one week and made it impossible for me to work full days for several weeks following the week that I was absent from work.
4. I have been practicing "uphill" ever since my illness.
4. There has been one prior thirty (30) day extension of the above deadline in this appeal.
6. I request that this Court grant me a twelve (12) day extension to make the above filings.
7. I have called Respondent's counsel, Leland Greeley, to ask him to consent to this deadline extension, but I have not been able to reach him.

FURTHER YOUR AFFIANT SAYETH NAUGHT



---

Arthur K. Aiken

SWORN to and SUBSCRIBED before me this

30<sup>th</sup> day of May, 2012

Andrea Stobbe  
Notary Public for South Carolina

My Commission Expires: 2/5/17

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

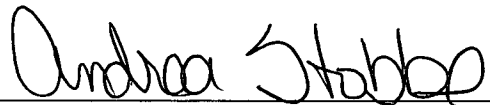
Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

PROOF OF SERVICE

I certify that I have served the Appellant's Motion for Extension of Time to File Initial Brief and Designation of Matter on Respondent's counsel by mailing a copy of the above to Leland B. Greeley, Leland B. Greeley. PA, PO Box 2981, Rock Hill, SC 29732 on May 30, 2012.



Andrea Stobbe, Paralegal  
Reeves, Aiken & Hightower, PA  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: [andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

**RECEIVED**

MAY 31 2012

**SC Court of Appeals**

# The South Carolina Court of Appeals

Ida Lord, Appellant,

v.

D & J Enterprises, Inc. d/b/a Cash on the Spot,  
Respondent.

Appellate Case No. 2012-208267

---

ORDER

---

The time for serving and filing the appellant's initial brief and designation of matter is hereby extended until June 15, 2012.

FOR THE COURT

BY V. Claire Allen, Deputy  
CLERK

Columbia, South Carolina

cc:

Leland B. Greeley  
Arthur Kerr Aiken  
Robert J. Reeves

**FILED**

6-4-12 LAF

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

APPELLANT'S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON  
APPEAL

The Appellant, Ida Lord, designates the following matter to be included in the Record on  
Appeal:

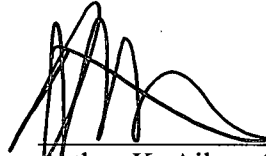
1. Summons and Complaint;
2. Answer to Complaint;
3. First Amended Complaint;
4. Answer to First Amended Complaint;
5. Respondent's Motion for Summary Judgment and Memorandum in Support;
6. Appellant's Memorandum in Opposition to Respondent's Motion for Summary Judgment  
with attached Appendix;
7. August 29, 2011 Hearing Transcript;
8. January 18, 2012 Hearing Transcript;
9. October 26, 2011 Order;
10. January 31, 2012 Order;

11. Plaintiff's Motion to Alter or Amend and For Reconsideration dated November 7, 2011;

and

12. Notice of Appeal.

We certify that this designation contains no matter that is irrelevant to this appeal.



---

Arthur K. Aiken (SC Bar No. 12983)  
Robert J. Reeves  
Reeves, Aiken & Hightower, LLP  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: [art@aikenandhightower.com](mailto:art@aikenandhightower.com)  
ATTORNEYS FOR APPELLANTS

June 15, 2012

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

---

Case No. 2009-CP-46-2671

---

Ida Lord.....Plaintiff/Appellant

v.

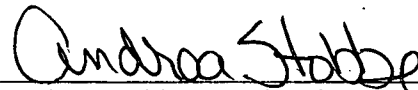
D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

---

PROOF OF SERVICE

---

I certify that I have served the Appellant's Initial Brief and Designation of Matter on all parties by mailing a copy of the Initial Brief and Designation of Matter to each attorney of record: Leland B. Greeley, Leland B. Greeley, PA, PO Box 2981, Rock Hill, SC 29732 on June 15, 2012.



---

Andrea Stobbe, Paralegal  
Reeves, Aiken & Hightower, LLP  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: [ahparalegal@aikenandhightower.com](mailto:ahparalegal@aikenandhightower.com)

ROBERT J. REEVES +  
ARTHUR K. AIKEN +  
A. BEA HIGHTOWER +  
GREGORY D. SPINK +  
J. TYLER BURNS +



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PLEASE REPLY TO:

+Licensed in SC \*Licensed in NC

June 15, 2012

The Honorable Tonya Gee  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
C/A No: NOT YET ASSIGNED  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed for filing please find the original and two (2) copies of Appellant's Initial Brief with attached Proof of Service in the above-referenced matter. Please return the date stamped copies to me in the enclosed, self-addressed, stamped envelope at your earliest convenience.

By copy of this letter I am serving a copy of Appellant's Initial Brief on all attorneys of record in this matter.

Please do not hesitate to contact me if you have any questions or need anything further.

Thank you for your assistance in this matter.

Sincerely,

Andrea Stobbe  
Paralegal for Reeves, Aiken and Hightower, LLP  
[ahparalegal@aikenandhightower.com](mailto:ahparalegal@aikenandhightower.com)

Enclosures

cc: Leland B. Greeley

**RECEIVED**  
JUN 19 2012  
SC Court of Appeals

OFFICES

FORT MILL • 803.548.4444  
BAXTER COMMERCE CENTER, 2ND FLOOR  
1012 MARKET ST., SUITE 205  
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CHARLOTTE, NC 28204

COLUMBIA • 803.799.5205  
ELLIOT BUILDING  
2231 DEVINE STREET, SUITE 201  
COLUMBIA, SC 29205

**LELAND B. GREELEY, P.A.  
ATTORNEY**

128 EAST MAIN STREET, SUITE 102  
ROCK HILL, SOUTH CAROLINA

Post Office Box 2981  
Rock Hill, SC 29732

(803)329-0088  
FAX: (803)329-4310

**RECEIVED**  
JUN 27 2012  
**SC Court of Appeals**

June 26, 2012

The Honorable Tonya Gee, Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

RE: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
CA No: 2012-208267  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed please find for filing with the Court an original and six copies of Respondent's Motion to Dismiss Appeal and Memorandum in Support of Motion to Dismiss Appeal along with the required \$25.00 filing fee.

By copy of this letter, I am serving a copy of both on all attorneys of record in this matter.

Please do not hesitate to contact me if you have any questions or concerns or require anything further.

With kindest regards, I remain

Very truly yours,



Andrea Thomas, Paralegal, for  
Leland B. Greeley, Attorney for Respondent

/adt

Enclosures

cc: Robert J. Reeves, Esq. and Arthur K. Aiken, Esq., Attorneys for Appellant (w/encls.)  
D & J Enterprises, Inc. (w/encls.)

64704

IN THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

**RECEIVED**  
JUN 27 2012  
**SC Court of Appeals**

Appellate Case No. 2012-208267

Ida Lord, ..... Appellant,

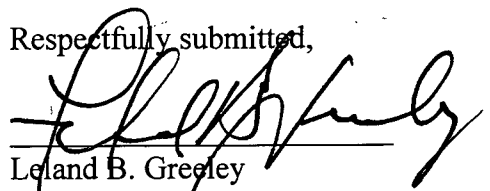
v.

D & J Enterprises, Inc. d/b/a Cash on the Spot.....Respondent.

**MOTION TO DISMISS APPEAL**

The above-named respondent, by and through its counsel of record, Leland B. Greeley, does hereby move this Court pursuant to Rule 240, SCACR, for an Order dismissing the appeal of the Appellant.

The basis of this motion is that Respondent respectfully submits that Appellant failed to timely affect the appeal as demonstrated in the accompanying Memorandum and the Appeal should be dismissed pursuant to Rule 203(d)(3), SCACR.

Respectfully submitted,  
  
Leland B. Greeley  
128 East Main Street, Suite 102  
Post Office Box 2981  
Rock Hill, South Carolina 29732  
(803) 329-0088  
Attorney for Respondent

Rock Hill, South Carolina  
June 26, 2012.

IN THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

RECEIVED  
JUN 27 2012  
SC Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Appellate Case No. 2012-208267

Ida Lord, . . . . . Appellant,

v.

D & J Enterprises, Inc. d/b/a Cash on the Spot.....Respondent.

**MEMORANDUM IN SUPPORT OF MOTION TO DISMISS APPEAL**

The above-named respondent, by and through its counsel of record, Leland B. Greeley, does hereby submit this Memorandum in support of an Order of the Court dismissing the appeal of the Appellant.

**Statement of Case**

On June 19, 2009, Appellant filed this action against the Defendant D& J Enterprises, Inc. d/b/a Cash on the Spot. Respondent timely filed its Answer. Respondent later filed a Motion to Dismiss or in the Alternative for Summary Judgment. The Motion was heard by the Honorable John C. Hayes, III, Circuit Court Judge for the Sixteenth Judicial Circuit. On October 26, 2011 Judge Hayes issued an Order granting summary judgment to the Respondent. The Order was filed with the York County Clerk of Court on October 27, 2011 and a copy was mailed the same day to all counsel of record. (See attached copy of Order Granting Summary Judgment to Defendant).

**Discussion**

Following receiving the Order of the Court granting summary judgment, on November 7, 2011, the Appellant filed with the Court and served Respondent by mail, a Motion to Alter or Amend and for Reconsideration of the Judgment pursuant to Rule

59(e), SCRCP. Appellant's motion was scheduled by the Clerk of Court to be heard on January 18, 2011.

At the hearing the Court noted that there was no evidence the Appellant had satisfied the requirement of Rule 59(g), SCRCP, requiring the Judge to be served with the Motion to Amend within 10 days of its filing. The Court allowed Appellant to present an argument with the contingent that proof of service on the Court under the Rule be provided. (See Attached Transcript, pp. 29-34). Appellant did not provide proof of service.

Rule 59 (e), SCRCP provides that a motion to amend or alter a judgment shall be filed not later than 10 days following receipt of the Judgment. The Appellant did file its motion with the Clerk within the 10 day time period. However, Appellant did not satisfy Rule 59(g) by providing the Judge with a copy within 10 days of the filing.

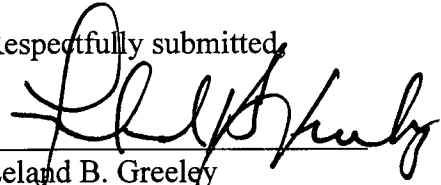
Rule 59 (f) provides that the time for appeal shall be stayed upon the timely filing of a motion.

In this case, a timely filing of the appeal was not made. Rule 203(b)(1), SCACR, provides that "A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment. When a timely motion for judgment n.o.v. (Rule 50, SCRCP), motion to alter or amend the judgment (Rules 52 and 59, SCRCP), or a motion for a new trial (Rule 59, SCRCP) has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion."

The Notice of Appeal was filed and served by the Appellant on February 21, 2012. (See attached copy of the Notice of Appeal). However, since the Appellant did not comply with Rule 59(g), SCRCP, the time for filing began to run on October 27, 2011. The time for filing was not stayed due Appellant's noncompliance with Rule 59(g). Thus, the deadline for filing the Notice of Appeal in this case was 30 days from October 27, 2011, plus an additional 5 days due to service by mail by the clerk's office, for a deadline of December 1, 2011.

Due to Appellant not timely serving the Notice of Appeal, it is respectfully submitted that this appeal should be dismissed pursuant to Rule 203(d)(3), SCACR.

Respectfully submitted,



Leland B. Greeley  
128 East Main Street, Suite 102  
Post Office Box 2981  
Rock Hill, South Carolina 29732  
(803) 329-0088  
Attorney for Respondent

Rock Hill, South Carolina

June 26, 2012.

FORM 4

STATE OF SOUTH CAROLINA  
 COUNTY OF YORK  
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2009CP4602671

Ida Lord	D&J Enterprises Inc	Cash On The Spot
PLAINTIFF(S)	DEFENDANT(S)	

Submitted by: Leeland Greeley	Attorney for: <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant
-------------------------------	--

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  
 Rule 43(k), SCRPC (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j) SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other: \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other: \_\_\_\_\_

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order; (formal order to follow)  Statement of Judgment by the Court:

**ORDER GRANTING SUMMARY JUDGMENT TO DEFENDANT**

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk:

**INFORMATION FOR THE PUBLIC INDEX**

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

s/John C. Hayes, 999  
 Circuit Court Judge

2049  
 Judge Code

10-30-11  
 Date

**For Clerk of Court Office Use Only**

This judgment was entered on 27th day of October, 2011, and a copy mailed first class or placed in the appropriate attorney's box on 27th day of October, 2011, to attorneys of record or to parties (when appearing pro se) as follows:

**Arthur Kerr Aiken Aiken & Hightower** 2231 Devine Street Suite 201  
Columbia, SC 29205  
**Robert Reeves** Robert J Reeves PC PO Box 1297 Fort Mill, SC 29716

---

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

**Leland Greeley** Leland B. Greeley, PA P.O. Box 2981 Rock Hill, SC 29732

---

**ATTORNEY(S) FOR THE DEFENDANT(S)**

*David Hamilton*

David Hamilton - Clerk of Court

Court Reporter

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )  
) )  
) )  
Ida Lord, )  
) )  
) )  
Plaintiffs, )  
) )  
v. )  
) )  
D & J Enterprises, Inc. d/b/a )  
Cash on the Spot. )  
) )  
Defendant. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT  
YORK COUNTY,  
DAVID HAMILTON  
C.C.P. & G.S.  
YORK COUNTY,  
**ORDER GRANTING SUMMARY  
JUDGMENT TO DEFENDANT**

FILED-RECEIVED  
2011 OCT 27 PM 3:00  
DAVID HAMILTON  
C.C.P. & G.S.  
YORK COUNTY,

C.A. No.: 09-CP-46-26H<sup>2671</sup>

D & J Enterprises, d/b/a Cash on the Spot, filed a motion to dismiss and for summary judgment. Both Defendant and Plaintiff filed memorandums in support of their positions on the issues. The motion was heard before this Court on Monday, August 29, 2011. Both parties were represented by counsel.

At the beginning of the hearing both parties agreed that this Court, in reaching its ruling, could consider evidence outside the pleadings pursuant to Rule 56 of the South Carolina Rules of Civil Procedure.

Cash on the Spot, located on the corner of Highway 901 and South Cherry Road in the County of York, is a business for cashing checks, providing loans, and also offers the service of wiring money. On February 14, 2008, during regular business hours, the Plaintiff entered the premises to conduct business. While in the business, a male person was seated at a table appearing to be filling out paperwork for a wire transfer. As Ms. Lord walked past the table and approached the window, the male stood, reached under his clothing, pulled out a pistol, and immediately shot Ms. Lord in the head. The male then fled the premises. The incident, which was captured on the business's security video,

*Handwritten signature/initials*

lasted approximately six seconds. Due to the video, law enforcement was able to identify the male by DNA taken from a pen he had put in his mouth at the table.

Phillip Watts was subsequently arrested, and on May 15, 2008, he was indicted by the York County Grand Jury for the crime of Assault and Battery with Intent to Kill against Ms. Lord, and also Possession of a Firearm during the Commission of a Violent Offense. On April 27, 2009, prior to the filing of this action, Watts plead guilty but mentally ill to the indicted charges and was sentenced by South Carolina Circuit Judge Lee Alford to a term of life without parole with the South Carolina Department of Corrections.

### DISCUSSION

Summary judgment is appropriate when it is clear that there are no genuine issues of material fact, and the moving party is entitled to judgment as a matter of law. *City of Columbia v. A.C.L.U.*, 323 S.C. 384, 386, 475 S.E.2d 747, 748 (1996). In ruling on a motion for summary judgment, the evidence and the inferences that can be drawn therefrom should be viewed in the light most favorable to the nonmoving party. *Café Assocs. v. Gerngross*, 305 S.C. 6, 9, 406 S.E.2d 162, 164 (1991).

In the present case, D & J Enterprises, doing business as Cash on the Spot, is a corporation in the business of offering check cashing, pay day lending, Western Union money transfers, and selling money orders. Thus, on the day of the incident, Cash on the Spot was a merchant.

At the time of the criminal act at issue, the law governing the scope of the duty of merchants to protect invitees against criminal acts of third parties in South Carolina was governed by Miletic v. Wal-Mart Stores, Inc., 339 S.C. 327, 529 S.E.2d 68 (S.C. App.

2000), *citing* Shipes v. Piggly Wiggly St. Andrews, Inc. 269 S.C. 479, 484, 238 S.E.2d 167, 169 (1977). Since the hearing in this matter, however, the South Carolina Supreme Court has issued Bass v. Gopal, Inc., Op. No. 27054 (October 10, 2011). In Gopal, the Court abandoned the imminent harm test and adopted the balancing approach previously discussed in Miletic. It should be noted, however, that in Gopal the Supreme Court explicitly stated that their holding neither created a new duty nor altered the duty that existed previously.<sup>1</sup> Although the court believes that Gopal applies prospectively, the undersigned has analyzed the facts of this case under both Shipes and Gopal.

### **1. Shipes - Imminent Harm Test**

Prior to the issuance of Gopal, South Carolina followed what is known as the imminent harm test. The imminent harm test, adopted by the Supreme Court in Shipes, holds that "[u]nder South Carolina law, a merchant or restaurant owner is not charged with the duty of protecting its customer against criminal acts of third parties when it did not know or have reason to know that such acts were occurring or about to occur." Id. at 330, 529 S.E.2d at 69, *citing* Callen v. Cale Yarborough Enterprises, 314 S.C. 204, 206, 442 S.E.2d 216, 218 (Ct. App. 1994). "In order to establish a duty under this approach, a plaintiff must demonstrate a landowner or merchant is aware of the specific imminent harm about to befall him or her." Id. at 331.

Plaintiff asserts that because Mr. Starnes, President of D&J Enterprises, was aware of Mr. Watts' previous crimes and warned his employees that "a madman was on the loose," D&J Enterprises was aware of the specific imminent harm about to befall Mrs. Lord, and, therefore, had a duty to protect her. The court disagrees.

---

<sup>1</sup> "Indeed, our courts have consistently imposed a duty on business owners to employ reasonable measures to protect invitees from foreseeable harm. . . . In adopting a balancing approach, we do not alter this duty . . ." Gopal, pg. 6 of 9.

pc 747

There is no evidence before the court that Defendant had reason to know or knew of the specific imminent harm about to befall Ms. Lord. As a preliminary matter, there is no history of criminal acts occurring on the premises of Cash on the Spot. Furthermore, Cash on the Spot had a security video operating at the time of the shooting. The video captured the shooting of Ms. Lord, as well as the moments leading up to the shooting. In the video, Mr. Watts was seated at the Western Union document table, posing as a customer in the ordinary course of business. When Ms. Lord approached the clerk's window, Watts casually got up from his seat, walked up behind Ms. Lord, as if he too were approaching the window after her, suddenly grabbed her around the neck from behind, pulled a pistol from his belt, and shot her in the head. Less than six seconds elapsed from the time he grabbed Ms. Lord around the throat to the time he left the building. At no time prior to Mr. Watts grabbing Ms. Lord was there any out of the ordinary behavior that would have put either Ms. Lord, or Ms. Boyd behind the counter, on notice that Mr. Watts was about to shoot Ms. Lord. Counsel for Plaintiff concurred with the facts as shown on the video and stated by Mr. Greeley at the hearing.

The court finds that Defendant did not know or have reason to know of the specific imminent harm about to befall Mr. Lord. Therefore, under the imminent harm test, Defendant had no duty to protect Ms. Lord from the criminal actions of Mr. Watts.

## 2. Gopal - Balancing Test

In Gopal, the South Carolina Supreme Court adopted the balancing test originally formulated by the California Supreme Court in Ann M. v. Pacific Plaza Shopping Ctr., 863 P.2d 207 (1993), and since adopted by the Supreme Court of Tennessee in McClung v. Delta Square Limited Partnership, 937 S.W.2d 891 (Tenn. 1996). The balancing

Doc #A

approach “seeks to balance the degree of foreseeability of harm against the burden of the duty imposed.” Id. at 901. “The more foreseeable a crime, the more onerous is a business owner’s burden of providing security.” Id. Under this approach, “the presence or absence of prior criminal incidents is a significant factor in determining the amount of security required of a business owner, but their absence does not foreclose the duty to provide some level of security if other factors support a heightened risk.” Id.

Applying the Gopal balancing test to the evidence in this case, the court must determine (1) if the crime was foreseeable, and (2) given the foreseeability of the criminal act, determine whether Defendant’s security measures were reasonable.

As a preliminary matter, the court finds that Defendant’s knowledge of two prior armed robberies, both involving shootings and occurring at two distant and unrelated locations across the County, is not sufficient to make the occurrence of a third crime, at an unrelated location, foreseeable. However, the deposition testimony of Darrell Starnes, owner of D&J Enterprises, clearly indicates that Defendant actually did foresee the possibility of a third criminal act, and even warned his employees “to be on their toes, to look for suspicious people” because “there was a madman . . . on the loose.” The court recognizes that Mr. Starnes was acting in good faith to protect his employees from an improbable, but potentially serious, criminal act. Of course, the court cannot determine that the crime was not foreseeable when the Defendant did in fact foresee the possibility of the crime which later occurred. Therefore, the undersigned finds that the Plaintiff has produced at least a scintilla of evidence that the crime was foreseeable.

Once evidence of foreseeability is established, the court must next determine whether Plaintiff has provided any evidence that the security measures taken by the

*De 14/15*

Defendant were unreasonable given the risk. Here, as in Gopal, Plaintiffs contend that the appropriate security measure would have been to place a security guard at the entrance of Cash on the Spot. Plaintiff submitted, via affidavit, the following opinions of its expert, Robert M. Clark:

1. . . . D&J had a duty, in the exercise of reasonable care, to post a security guard at the entrance to [Cash on the Spot] to provide reasonable protection for its employees and customers against the threat of a serial armed robber who had shot two store clerks and a bystander in two previous armed robberies of businesses.
2. The armed robbery attempt during which Ida Lord was shot most probably would not have occurred if D&J had posted a security guard at the entrance [Cash on the Spot].

Plaintiff's expert appears to base the foregoing conclusion on the following facts: 1) Two prior armed robberies, both involving shootings, occurred in York County on January 28 and February 5, 2008; 2) D&J was aware of both armed robberies/shootings; 3) D&J had previously installed bullet-proof glass, cameras, and panic buttons to protect its clerks and deter criminal acts; and 4) D&J, like the two previous businesses which were robbed, was a small business that has cash on hand and is usually manned by one or two employees.

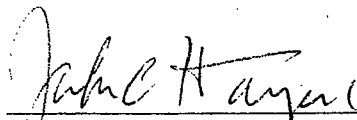
In Gopal, the Supreme Court found that "the hiring of security personnel is a significant economic burden. Considering a business's economic interest, it is difficult to imagine an instance where a business would be required to employ costly security guards in the absence of evidence of prior crimes on the premises." The facts of this case are no exception. There is no evidence of prior crimes on the premises of Cash on the Spot. Therefore, if the rationale of the Plaintiff is taken to its logical conclusion, every business in York County that was manned by one or two people and had cash on hand had a legal

JEH/HC

duty to hire a security guard from February 5 onward, either until the assailant was caught or to some unknown time in the future when the threat was no longer imminent. Imposing such a heavy burden on small businesses, based on these facts, is both unreasonable and economically unfeasible.

Viewing the facts in the light most favorable to Ms. Lord, D&J Enterprises, doing business as Cash on the Spot, did not have a duty to hire a security guard, and the security measures that were implemented by D&J Enterprises were reasonable.

IT IS ORDERED that Defendant's motion for summary judgment is GRANTED

  
\_\_\_\_\_  
John C. Hayes, III  
Circuit Court Judge #7  
Sixteenth Judicial Circuit

York, South Carolina

\_\_\_\_\_  
10/26, 2011.

1 hear ---

2 MR. REEVES: Yes, sir, Your Honor.

3 THE COURT: --- Ida Lord?

4 Before we get started in this I've got a threshold  
5 issue. I was a little surprised that I never got a Motion  
6 to Reconsider in this case. And usually once I get one I  
7 do not have a hearing on it I go ahead and review the  
8 motion and issue an order and I was somewhat surprised that  
9 I did not get a Motion to Reconsider in this case. So I  
10 was surprised when I saw this on the docket. And Rule 59  
11 (G) requires that the Court be sent a written notice within  
12 ten days of the filing of the motion.

13 MR. REEVES: Yes, sir. We did send it, Your Honor.

14 THE COURT: I don't see any evidence of that and I  
15 don't recall getting it. Have you got some evidence that  
16 you sent it? The only thing I see in the file is a motion  
17 and attached to it is like it was served showing it going  
18 to Leland Greeley. And I did not remember getting that  
19 quite frankly because I was surprised I was not. So I  
20 you've got some indication in your file that I was mailed a  
21 copy because I -

22 MR. REEVES: To be honest with you, Your Honor, I did  
23 not anticipate this discussion at all but my co-counsel  
24 indicated that he did file it.

25 THE COURT: It's filed. No question about mine.

1 MR. REEVES: Yes, sir.

2 THE COURT: No question.

3 MR. REEVES: Okay.

4 THE COURT: The rule requires I be - A party filing a  
5 written motion shall provide a copy of the motion to the  
6 judge within ten days after the filing of the motion. I  
7 was on the rules committee when we added that. The reason  
8 we added it was just for this situation where it all of a  
9 sudden it pops up and that's something that I should be  
10 ruling on and I didn't know it existed.

11 MR. REEVES: I cannot answer that. My co-counsel took  
12 care of that and I assumed that's -

13 THE COURT: Well he did take care of it. That's the  
14 problem because I don't hear these cases unless I've been  
15 timely notified. I'll be glad to go ahead and hear what  
16 you have to say since you're here and see if you can  
17 confirm that I was provided a copy within the rule.

18 MR. REEVES: Okay, sir.

19 THE COURT: What I'm trying to do is feed everybody  
20 out of the same spoon.

21 MR. REEVES: I understand. Yes, sir.

22 THE COURT: I do this routinely. If that rule - if I  
23 have not been provided a copy within time I don't hear it.

24 MR. REEVES: Yes, Your Honor. Would it be better,  
25 Your Honor, to - for me to provide proof of that or not and

1 once we get --

2 THE COURT: Well why don't you go ahead while you're  
3 here I'll be glad to hear from you. I know the case well,  
4 I worked real hard on it quite frankly.

5 MR. REEVES: Yes, sir. Yes, sir.

6 THE COURT: It's one of those cases if I remember  
7 correctly a new decision popped up in the middle of my  
8 slowness in regarding it and I had to rethink and go back  
9 and do, so I'll be glad to go ahead and hear what you have  
10 to say and then wait to get confirmation from somebody, I  
11 guess Mr. Aiken, that rule, he complied with the rule.

12 MR. REEVES: Yes, sir. I'll be very brief, Your  
13 Honor.

14 I do have a three page Memorandum in support which I  
15 will have filed and then I'll bring it back --

16 THE COURT: I've got the case here.

17 MR. REEVES: May I approach?

18 THE COURT: Yes, sir.

19 (DOCUMENTS RECEIVED UP BY THE COURT.)

20 MR. REEVES: Well, Your Honor, I'm not going to  
21 belabor the facts. There's no question you're very  
22 familiar with it, your order was very detailed.

23 We simply take the position respectfully that we have  
24 met the burden; we're well beyond a scintilla maybe in  
25 peppercorn territory. The only evidence in the case has

1        been evidence developed by the Plaintiff. The expert  
2        witness supplies a lot of the missing elements. The only  
3        thing that I in preparing for today I wanted to think of  
4        all the incidences where the law holds business owners  
5        responsible for criminal acts and the laws are pleading to  
6        that from dram shop liability, respondent superior.  
7        Walmart gets sued for their parking lots, hotels get sued  
8        for sexual assault and so forth, so it certainly is an area  
9        that is not unfamiliar to the Court.

10        In this case, and perhaps the focus was too specific  
11        in this case, the threat by the bad man was simply part of  
12        a larger threat. In going back and reviewing the case we  
13        are certainly not abdicating that everyone that deals with  
14        cash has to have a private security guard. That would be  
15        outrageous absolutely. What we are saying is in looking at  
16        the facts of this particular business and it's particular  
17        location and at this particular time, and I'm not speaking  
18        of the time of the mad man on the loose, I'm speaking in  
19        sense of in the testimony by the defendant, February is one  
20        of their busiest times. Everyone starts getting their tax  
21        refunds in January and the month of February, each year, is  
22        their heaviest time; heaviest business. They have the most  
23        cash on site. A Hundred Thousand Dollars a week as I  
24        recall was going through that shop in February. If you  
25        take the time to put bars on your window, put bullet proof

1 glass, video cameras, you're certainly aware that bad  
2 things can happen. Those are all steps taken to protect  
3 the employees and their cash. They know they are a target.  
4 They broadcast it in the name of their business. You find  
5 out that there is a serial robber going around, it gets  
6 your attention to the point that you have a meeting with  
7 your employees. In conjunction with the busiest month of  
8 every year the largest amount of cash on site, that is the  
9 thirty days where you probably should consider extra  
10 security measures. And it can be an off duty sheriff's  
11 deputy, it can be a private security guard. Its not  
12 unreasonable. But whether you agree with me or not it at  
13 least gets me to a jury respectfully. And the jury can  
14 decide if they did everything that was reasonable or not.  
15 So in that regard, Your Honor, we do feel like we've met  
16 the burden and we respectfully request that you reconsider.  
17 Thank you, sir.

18 THE COURT: All right. Mr. Greeley.

19 MR. GREELEY: Your Honor, if it may please the Court,  
20 I respectfully disagree with opposing counsel in regards to  
21 this. I believe that the Court's order very adequately  
22 took into play the most current law, South Carolina law in  
23 issuing its opinion in November. It cites culpable, it  
24 talks about culpable, it talks about the balancing test, it  
25 applies the facts as they existed and as they existed at

1 the time and they have not changed to that and I believe  
2 that the order is very complete and is correct in it's  
3 ruling.

4 In regards to the particular business, particular  
5 time, particular place; there's no evidence in this record  
6 whatsoever that the mad man had any particular knowledge of  
7 the business of Cash on the Spot and when it had a -- when  
8 its busiest time of the year if it was in February. And  
9 also it shows that the businesses that had been robbed by  
10 this person, two businesses previous to this one, were not  
11 under the same like as our business. One was a seafood  
12 store and one was a convenient store in a whole other  
13 community. So I believe that the Court's order is  
14 sufficient and thorough and correct and would ask the court  
15 to stay the order as issued. Thank you.

16 THE COURT: I'm gonna take it under advisement but I do  
17 need to get something and again I presume it has to come  
18 from Mr. Aiken because he apparently is the one who filed  
19 and we will file the Memorandum.

20 MR. REEVES: He is in trial so I will get it to you no  
21 later than tomorrow.

22 THE COURT: That will be fine.

23 MR. REEVES: Thank you, sir.

24 -- END OF THE TRANSCRIPT IN THE MATTER OF IDA LORD  
25 VERSUS D&J ENTERPRISES 2010-CP-46-03586. --

CERTIFICATE OF REPORTER

State of South Carolina )  
 )  
County of York )

I, Wanda Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for York County, South Carolina, on the 29th day of August 2011 and the 18th day of January 2012.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

*Wanda Nelson*

\_\_\_\_\_  
Wanda Nelson, CVR  
Certified Verbatim Reporter,  
Official Court Reporter,  
Notary Public, in and for  
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: 3-8 / 2012

ROBERT J. REEVES +  
ARTHUR K. AIKEN +  
A. BEA HIGHTOWER +  
GREGORY D. SPINK +  
J. TYLER BURNS +



**Reeves, Aiken & Hightower LLP**  
INJURY AND CRIMINAL ATTORNEYS

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\*Licensed in SC ♦Licensed in NC

February 21, 2012

The Honorable Tonya Gee  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
CA No: NOT YET ASSIGNED  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed for filing please find the original and three (3) copies of the Notice of Appeal with attached Proof of Service in the above-referenced matter. Please return the date-stamped copies to me in the enclosed, self-addressed, stamped envelope at your earliest convenience.

By copy of this letter I am serving a copy of the Notice of Appeal on all attorneys of record in this matter.

Please do not hesitate to contact me if you have any questions or need anything further.

Thank you for your assistance in this matter.

Sincerely,

Andrea Stobbe  
Paralegal for Reeves, Aiken and Hightower  
[andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

Enclosures

cc: Leland B. Greeley  
York County Clerk of Court  
Ida Lord

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

Ida Lord.....Plaintiff/Appellant

v.

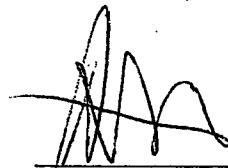
D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

NOTICE OF APPEAL

Appellant, Ida Lord (Lord), appeals the Order signed by the Honorable John C. Hayes on October 26, 2012, which granted summary judgment to the Respondent, D&J Enterprises, Inc, d/b/a Cash on the Spot (D&J). Appellant received written notice of entry of the Order signed October 26, 2011 on October 28, 2011. On November 7, 2011, Appellant timely filed and served a Motion to Alter or Amend and for Reconsideration of the Order signed October 26, 2011. By Order signed January 30, 2012, the Honorable John C. Hayes, III denied Appellant's Motion to Alter or Amend and for Reconsideration. Appellant received written notice of the entry of the Order signed on January 30, 2012 on February 3, 2012. Appellants also appeal the Order signed January 30, 2012. Copies of both Orders appealed from are attached.

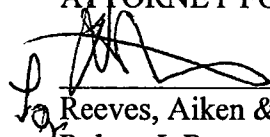
February 21, 2012

(SIGNATURE AND OTHER COUNSEL OF RECORD ON FOLLOWING PAGE)



---

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ATTORNEY FOR APPELLANT

**OTHER COUNSEL OF RECORD:**

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Leland B. Greeley. PA  
PO Box 2981  
Rock Hill, SC 29732  
ATTORNEY FOR RESPONDENT

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

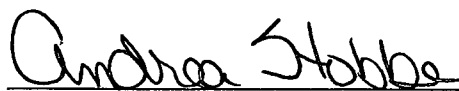
Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on all parties by mailing a copy of the Notice of Appeal to each attorney of record: Leland B. Greeley, Leland B. Greeley, PA, PO Box 2981, Rock Hill, SC 29732 on February 21, 2012.



Andrea Stobbe, Paralegal  
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STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS )  
SIXTEENTH JUDICIAL CIRCUIT )

Ida Lord, )

Plaintiffs, )

v. )

D & J Enterprises, Inc. d/b/a )  
Cash on the Spot. )

Defendant. )

ORDER GRANTING SUMMARY )  
JUDGMENT TO DEFENDANT )

C.A. No.: 09-CP-46-2611

DAVID HAMILTON  
C.C. C.P. & S.S.  
YORK COUNTY,

2011 OCT 27 PM 3:00

FILED-RECEIVED

D & J Enterprises, d/b/a Cash on the Spot, filed a motion to dismiss and for summary judgment. Both Defendant and Plaintiff filed memorandums in support of their positions on the issues. The motion was heard before this Court on Monday, August 29, 2011. Both parties were represented by counsel.

At the beginning of the hearing both parties agreed that this Court, in reaching its ruling, could consider evidence outside the pleadings pursuant to Rule 56 of the South Carolina Rules of Civil Procedure.

Cash on the Spot, located on the corner of Highway 901 and South Cherry Road in the County of York, is a business for cashing checks, providing loans, and also offers the service of wiring money. On February 14, 2008, during regular business hours, the Plaintiff entered the premises to conduct business. While in the business, a male person was seated at a table appearing to be filling out paperwork for a wire transfer. As Ms. Lord walked past the table and approached the window, the male stood, reached under his clothing, pulled out a pistol, and immediately shot Ms. Lord in the head. The male then fled the premises. The incident, which was captured on the business's security video,

*[Handwritten signature]*

lasted approximately six seconds. Due to the video, law enforcement was able to identify

the male by DNA taken from a pen he had put in his mouth at the table.

Phillip Watts was subsequently arrested, and on May 15, 2008, he was indicted by the York County Grand Jury for the crime of Assault and Battery with Intent to Kill against Ms. Lord, and also Possession of a Firearm during the Commission of a Violent Offense. On April 27, 2009, prior to the filing of this action, Watts plead guilty but mentally ill to the indicted charges and was sentenced by South Carolina Circuit Judge Lee Alford to a term of life without parole with the South Carolina Department of Corrections.

#### DISCUSSION

Summary judgment is appropriate when it is clear that there are no genuine issues of material fact, and the moving party is entitled to judgment as a matter of law. *City of Columbia v. A.C.L.U.*, 323 S.C. 384, 386, 475 S.E.2d 747, 748 (1996). In ruling on a motion for summary judgment, the evidence and the inferences that can be drawn therefrom should be viewed in the light most favorable to the nonmoving party. *Cafe Assoc. v. Gerngross*, 305 S.C. 6, 9, 406 S.E.2d 162, 164 (1991).

In the present case, D & J Enterprises, doing business as Cash on the Spot, is a corporation in the business of offering check cashing, pay day lending, Western Union money transfers, and selling money orders. Thus, on the day of the incident, Cash on the Spot was a merchant.

At the time of the criminal act at issue, the law governing the scope of the duty of merchants to protect invitees against criminal acts of third parties in South Carolina was governed by *Miletic v. Wal-Mart Stores, Inc.*, 339 S.C. 327, 529 S.E.2d 68 (S.C. App.

*J. H. 2*

167, 169 (1977). Since the hearing in this matter, however, the South Carolina Supreme Court has issued Bass v. Gopal, Inc., Op. No. 27054 (October 10, 2011). In Gopal, the Court abandoned the imminent harm test and adopted the balancing approach previously discussed in Miletic. It should be noted, however, that in Gopal the Supreme Court explicitly stated that their holding neither created a new duty nor altered the duty that existed previously.<sup>1</sup> Although the court believes that Gopal applies prospectively, the undersigned has analyzed the facts of this case under both Shipes and Gopal.

### 1. Shipes - Imminent Harm Test

Prior to the issuance of Gopal, South Carolina followed what is known as the imminent harm test. The imminent harm test, adopted by the Supreme Court in Shipes, holds that “[u]nder South Carolina law, a merchant or restaurant owner is not charged with the duty of protecting its customer against criminal acts of third parties when it did not know or have reason to know that such acts were occurring or about to occur.” Id. at 330, 529 S.E.2d at 69, *citing* Callen v. Cale Yarbrough Enterprises, 314 S.C. 204, 206, 442 S.E.2d 216, 218 (Ct. App. 1994). “In order to establish a duty under this approach, a plaintiff must demonstrate a landowner or merchant is aware of the specific imminent harm about to befall him or her.” Id. at 331.

Plaintiff asserts that because Mr. Starnes, President of D&J Enterprises, was aware of Mr. Watts' previous crimes and warned his employees that “a madman was on the loose,” D&J Enterprises was aware of the specific imminent harm about to befall Mrs. Lord, and, therefore, had a duty to protect her. The court disagrees.

<sup>1</sup> “Indeed, our courts have consistently imposed a duty on business owners to employ reasonable measures to protect invitees from foreseeable harm. . . . In adopting a balancing approach, we do not alter this duty. . . .” Gopal, pg. 6 of 9.

pc 1147

There is no evidence before the court that Defendant had reason to know or knew

of the specific imminent harm about to befall Ms. Lord. As a preliminary matter, there is no history of criminal acts occurring on the premises of Cash on the Spot. Furthermore, Cash on the Spot had a security video operating at the time of the shooting. The video captured the shooting of Ms. Lord, as well as the moments leading up to the shooting. In the video, Mr. Watts was seated at the Western Union document table, posing as a customer in the ordinary course of business. When Ms. Lord approached the clerk's window, Watts casually got up from his seat, walked up behind Ms. Lord, as if he too were approaching the window after her, suddenly grabbed her around the neck from behind, pulled a pistol from his belt, and shot her in the head. Less than six seconds elapsed from the time he grabbed Ms. Lord around the throat to the time he left the building. At no time prior to Mr. Watts grabbing Ms. Lord was there any out of the ordinary behavior that would have put either Ms. Lord, or Ms. Boyd behind the counter, on notice that Mr. Watts was about to shoot Ms. Lord. Counsel for Plaintiff concurred with the facts as shown on the video and stated by Mr. Greeley at the hearing.

The court finds that Defendant did not know or have reason to know of the specific imminent harm about to befall Mr. Lord. Therefore, under the imminent harm test, Defendant had no duty to protect Ms. Lord from the criminal actions of Mr. Watts.

## 2. Gopal - Balancing Test

In Gopal, the South Carolina Supreme Court adopted the balancing test originally formulated by the California Supreme Court in Ann M. v. Pacific Plaza Shopping Ctr., 863 P.2d 207 (1993), and since adopted by the Supreme Court of Tennessee in McClung v. Delta Square Limited Partnership, 937 S.W.2d 891 (Tenn. 1996). The balancing

Doc 44-A

approach "seeks to balance the degree of foreseeability of harm against the burden of the duty imposed." Id. at 901. "The more foreseeable a crime, the more onerous is a business owner's burden of providing security." Id. Under this approach, "the presence or absence of prior criminal incidents is a significant factor in determining the amount of security required of a business owner, but their absence does not foreclose the duty to provide some level of security if other factors support a heightened risk." Id.

Applying the Gopal balancing test to the evidence in this case, the court must determine (1) if the crime was foreseeable, and (2) given the foreseeability of the criminal act, determine whether Defendant's security measures were reasonable.

As a preliminary matter, the court finds that Defendant's knowledge of two prior armed robberies, both involving shootings and occurring at two distant and unrelated locations across the County, is not sufficient to make the occurrence of a third crime, at an unrelated location, foreseeable. However, the deposition testimony of Darrell Starnes, owner of D&I Enterprises, clearly indicates that Defendant actually did foresee the possibility of a third criminal act, and even warned his employees "to be on their toes, to look for suspicious people" because "there was a madman . . . on the loose." The court recognizes that Mr. Starnes was acting in good faith to protect his employees from an improbable, but potentially serious, criminal act. Of course, the court cannot determine that the crime was not foreseeable when the Defendant did in fact foresee the possibility of the crime which later occurred. Therefore, the undersigned finds that the Plaintiff has produced at least a scintilla of evidence that the crime was foreseeable.

Once evidence of foreseeability is established, the court must next determine whether Plaintiff has provided any evidence that the security measures taken by the

JKH/5

~~Defendant were unreasonable given the risk. Here, as in Gopal, Plaintiffs contend that~~

the appropriate security measure would have been to place a security guard at the entrance of Cash on the Spot. Plaintiff submitted, via affidavit, the following opinions of its expert, Robert M. Clark:

1. . . . D&J had a duty, in the exercise of reasonable care, to post a security guard at the entrance to [Cash on the Spot] to provide reasonable protection for its employees and customers against the threat of a serial armed robber who had shot two store clerks and a bystander in two previous armed robberies of businesses.
2. The armed robbery attempt during which Ida Lord was shot most probably would not have occurred if D&J had posted a security guard at the entrance [Cash on the Spot].

Plaintiff's expert appears to base the foregoing conclusion on the following facts: 1) Two prior armed robberies, both involving shootings, occurred in York County on January 28 and February 5, 2008; 2) D&J was aware of both armed robberies/shootings; 3) D&J had previously installed bullet-proof glass, cameras, and panic buttons to protect its clerks and deter criminal acts; and 4) D&J, like the two previous businesses which were robbed, was a small business that has cash on hand and is usually manned by one or two employees.

In Gopal, the Supreme Court found that "the hiring of security personnel is a significant economic burden. Considering a business's economic interest, it is difficult to imagine an instance where a business would be required to employ costly security guards in the absence of evidence of prior crimes on the premises." The facts of this case are no exception. There is no evidence of prior crimes on the premises of Cash on the Spot. Therefore, if the rationale of the Plaintiff is taken to its logical conclusion, every business in York County that was manned by one or two people and had cash on hand had a legal

JCH/HC

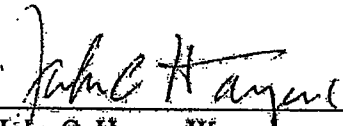
~~duty to hire a security guard from February 5 onward, either until the assailant was~~

caught or to some unknown time in the future when the threat was no longer imminent.

Imposing such a heavy burden on small businesses, based on these facts, is both unreasonable and economically unfeasible.

Viewing the facts in the light most favorable to Ms. Lord, D&J Enterprises, doing business as Cash on the Spot, did not have a duty to hire a security guard, and the security measures that were implemented by D&J Enterprises were reasonable.

IT IS ORDERED that Defendant's motion for summary judgment is GRANTED

  
\_\_\_\_\_  
John C. Hayes, III  
Circuit Court Judge #7  
Sixteenth Judicial Circuit

York, South Carolina

10/26, 2011.

STATE OF SOUTH CAROLINA )  
COUNTY OF YORK )

IN THE COURT OF COMMON PLEAS  
SIXTEENTH JUDICIAL CIRCUIT

Ida Lord, )

Case No. 09-CP-46-2671

Plaintiffs, )

ORDER

v. )

D & J Enterprises, Inc. d/b/a )  
Cash on the Spot. )

Defendant. )

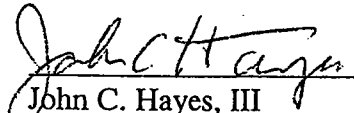
DAVID HAMILTON  
C.C.P. & GS  
YORK COUNTY, SC

FILED-RECEIVED  
2012 FEB - 2 PM 2:05

This matter concerns this Courts Order, issued October 26<sup>th</sup>, 2011, granting Summary Judgment for the Defendant. Plaintiff Ida Lord filed a Motion to Alter and Amend and for Reconsideration, but did not comply with Rule 59(g), SCRCP. The motion was heard before this Court on Wednesday, January 18, 2011. Both parties were represented by counsel.

As Plaintiff has failed to comply with Rule 59(g), her Motion is DENIED.

IT IS SO ORDERED.

  
\_\_\_\_\_  
John C. Hayes, III  
Circuit Court Judge  
Sixteenth Judicial Circuit

York, South Carolina

January 30<sup>th</sup>, 2011.

IN THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**  
JUN 27 2012  
SC Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Appellate Case No. 2012-208267

Ida Lord, ..... Appellant,

v.

D & J Enterprises, Inc. d/b/a Cash on the Spot.....Respondent.

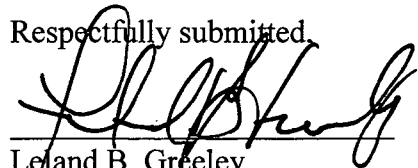
**PROOF OF SERVICE**

I certify that I have served the Motion to Dismiss Appeal and Memorandum in Support of Motion to Dismiss Appeal on each attorney of record as follows:

Robert J. Reeves, Esq.  
REEVES, AIKEN & HIGHTOWER, LLP  
1012 Market Street, Suite 205  
Fort Mill, SC 29708

Arthur K. Aiken, Esq.  
REEVES, AIKEN & HIGHTOWER, LLP  
2231 Devine Street, Suite 201  
Columbia, SC 29205

Respectfully submitted,



Leland B. Greeley  
128 East Main Street, Suite 102  
Post Office Box 2981  
Rock Hill, South Carolina 29732  
(803) 329-0088  
Attorney for Respondent

Rock Hill, South Carolina

June 26, 2012.

ROBERT J. REEVES +  
ARTHUR K. AIKEN +  
A. BEA HIGHTOWER +  
GREGORY D. SPINK +  
J. TYLER BURNS +



**Reeves, Aiken & Hightower LLP**

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PLEASE REPLY TO:

\*Licensed in SC \*Licensed in NC

June 28, 2012

The Honorable Tonya Gee  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
Case Tracking No: 2012208267  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed for filing, please find the original and seven (7) copies of Appellant's Return to Respondent's Motion to Dismiss Appeal with attached Proof of Service in the above-referenced matter. Please return a date stamped copy to me in the enclosed, self-addressed, stamped envelope at your earliest convenience.

By copy of this letter I am serving a copy on all attorneys of record in this matter.

Please do not hesitate to contact me if you have any questions or need anything further.

Thank you for your assistance in this matter.

Sincerely,

Andrea Stobbe  
Paralegal for Reeves, Aiken and Hightower, LLP  
[ahparalegal@aikenandhightower.com](mailto:ahparalegal@aikenandhightower.com)

**RECEIVED**

JUL 02 2012

**SC Court of Appeals**

Enclosures

cc: Leland B. Greeley  
Robert J. Reeves

OFFICES

FORT MILL • 803.548.4444  
BAXTER COMMERCE CENTER, 2ND FLOOR  
1012 MARKET ST., SUITE 205  
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COLUMBIA • 803.799.5205  
ELLIOT BUILDING  
2231 DEVINE STREET, SUITE 201  
COLUMBIA, SC 29205

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

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JUL 02 2012

**SC Court of Appeals**

Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

**APPELLANT'S RETURN TO RESPONDENT'S MOTION TO DISMISS APPEAL**

**STATEMENT OF THE CASE**

This is a premises liability case that arises out of an incident in which the Plaintiff/Appellant, Ida Lord (Lord), was shot in the head and back during an armed robbery attempt on business premises owned by and controlled by the Defendant/Respondent, D&J Enterprises, Inc. d/b/a Cash on the Spot (D&J). D&J made a Motion to Dismiss/Summary Judgment. The trial court granted D&J's Motion for Summary Judgment by Order signed October 26, 2011. Lord received written notice of the October 26, 2011 Order on October 28, 2011. On November 7, 2011, Lord filed and served a Rule 59(e) SCRPC Motion to Alter or Amend the October 26, 2011 Order. The trial court denied Lord's Rule 59(e) SCRPC Motion to Alter or Amend by Order signed on January 30, 2012. Lord received written notice of the January 30, 2012 Order on February 3, 2012. Lord filed and served her Notice of Appeal on February 21, 2012.

The Defendant/Respondent, D&J, has made a Motion to Dismiss Appeal on the basis of the argument that Lord's appeal is not timely because she failed to provide a copy of her Rule

59(e) Motion to Alter or Amend to the trial judge as required by Rule 59(g) SCRCF. Lord submits the following Return in opposition to D&J's Motion to Dismiss Appeal.

### **STATEMENT OF THE FACTS**

Lord's counsel inadvertently failed to provide a copy of her Rule 59(e) Motion to Alter or Amend the October 26, 2011 Order to the trial judge. This fact raises the issue of whether Lord's Rule 59(e) Motion to Alter or Amend the October 26, 2011 Order tolled the deadline for filing her notice of appeal under Rule 203(b)(1) SCACR even though no copy of Lord's Rule 59(e) Motion to Alter or Amend was provided to the trial judge at the time of filing and service of the Motion.

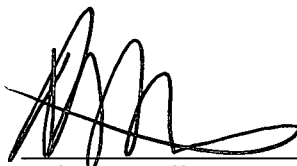
### **ARGUMENT**

In two cases on point, this Court has addressed the above issue and answered that a Rule 59(e) SCRCF motion to alter or amend tolls the time for filing a notice of appeal under Rule 203(b)(1) SCACR even though the appellant failed to provide a copy of the motion to the trial judge. In Gallagher v Evert, 353 S.C. 59, 577 S.E.2d 217 (Ct. App. 2002), the appellant failed to provide a copy of his Rule 59(e) SCRCF motion to alter or amend to the circuit judge. Despite this failure, this Court held that "the time for filing the notice of appeal did not begin to run until after the circuit court denied the motion." 353 S.C. at 63, 577 S.E.2d at 219. This Court reaffirmed the holding in Gallagher in Coon v Coon, 356 S.C. 342, 346, 588 S.E.2d 624, 626 (Ct. App. 2003) (wife not required to file notice of appeal until after family court decided motion to alter or amend even though wife failed to provide trial judge with copy of motion). The cited authorities require that this Court deny D&J's Motion to Dismiss Appeal.

### **CONCLUSION**

For the foregoing reasons, this Court should deny D&J's Motion to Dismiss this appeal

**(SIGNATURES ON THE FOLLOWING PAGE)**



Arthur K. Aiken (SC Bar No. 12983)

Robert J. Reeves

Reeves, Aiken & Hightower, LLP

2231 Devine Street, Suite 201

Columbia, SC 29205

Telephone: 803-799-5205

Fax: 803-799-5206

Email: [art@aikenandhightower.com](mailto:art@aikenandhightower.com)

ATTORNEYS FOR APPELLANTS

June 28, 2012  
Columbia, SC

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

---

Case No. 2009-CP-46-2671

---

Ida Lord.....Plaintiff/Appellant

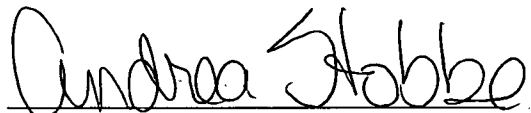
v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

---

PROOF OF SERVICE

I certify that I have served the Appellant's Return to Respondent's Motion to Dismiss Appeal on Respondent's counsel by mailing a copy of the above to Leland B. Greeley, Leland B. Greeley, PA, PO Box 2981, Rock Hill, SC 29732 on June 28, 2012.



Andrea Stobbe, Paralegal  
Reeves, Aiken & Hightower, PA  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: andrea@aikenandhightower.com



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

September 11, 2012

Mr. Leland B. Greeley  
PO Box 2981  
Rock Hill SC 29732

Re: Lord, Ida v. D&J Enterprises, Inc.  
Appellate Case No. 2012-208267

Dear Counsel:

Please see the enclosed order of the Court.

All parties are advised that the respondent's initial brief and designation of matter must be served and filed no more than thirty days from the date of this letter.

Very truly yours,

A handwritten signature in black ink that reads "Jenny A. Kitchings". The signature is written in a cursive style.

CLERK

cc: Arthur Kerr Aiken  
Robert J. Reeves

# The South Carolina Court of Appeals

Ida Lord, Appellant,

v.

D & J Enterprises, Inc. d/b/a Cash on the Spot,  
Respondent.

Appellate Case No. 2012-208267

---

## ORDER

---

Appellant filed a notice of appeal from an order granting summary judgment and an order denying Appellant's Rule 59(e), SCRCF, motion due to Appellant's failure to comply with Rule 59(g), SCRCF. Respondent has filed a motion to dismiss, contending that Appellant's appeal is untimely because the time for filing an appeal from the order granting summary judgment was not tolled by her 59(e) motion due to her failure to comply with Rule 59(g). After careful consideration, Respondent's motion to dismiss is denied. *See Gallagher v. Evert*, 353 S.C. 59, 63, 577 S.E.2d 217, 219 (Ct. App. 2002) ("The notes to Rule 59, SCRCF, indicate that subsection (g) was added 'to help insure the judge is promptly notified that the motion has been filed.' There is no indication that the failure to transmit a copy of the motion to the circuit court affects the tolling provision of Rule 203(b)(1), SCACR. Therefore, the time for filing the notice of appeal did not begin to run until after the circuit court denied the motion . . .").

  
FOR THE COURT

Columbia, South Carolina

**FILED**

*Carte* 9/11/12

cc:

Leland B. Greeley

Arthur Kerr Aiken

Robert J. Reeves

65860

**LELAND B. GREELEY, P.A.  
ATTORNEY**

128 EAST MAIN STREET, SUITE 102  
ROCK HILL, SOUTH CAROLINA

Post Office Box 2981  
Rock Hill, SC 29732

(803)329-0088  
FAX: (803)329-4310

October 10, 2012

**RECEIVED**  
OCT 12 2012  
**SC Court of Appeals**

The Honorable Tonya Gee, Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

RE: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
CA No: 2012-208267  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed please find for filing with the Court an original and six copies of Respondent's Motion for Extension to Time to File Respondent's Initial Brief and Designation of Matter along with the required \$25.00 filing fee. Opposing counsel has no objection to the Motion.

By copy of this letter, I am serving a copy of both on all attorneys of record in this matter.

Please do not hesitate to contact me if you have any questions or concerns or require anything further.

With kindest regards, I remain

Very truly yours,



Andrea Thomas, Paralegal, for  
Leland B. Greeley, Attorney for Respondent

/adt

Enclosures

cc: Robert J. Reeves, Esq. and Arthur K. Aiken, Esq., Attorneys for Appellant (w/encls.)  
D & J Enterprises, Inc. (w/encls.)

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of General Sessions

John C. Hayes, III, Circuit Court Judge

Case No. 2012-208267

Ida Lord.....Appellant.

v.

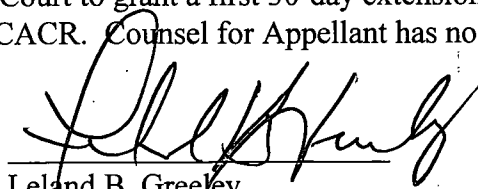
D & J Enterprises, Inc. ....Respondent.

MOTION FOR EXTENSION OF TIME TO FILE  
INITIAL BRIEF UNDER RULE 234 (b), SCACR

Appellant moves to be granted a first 30-day extension of time to file the initial brief and designation of matter under Rule 234 (b), SCACR.

The undersigned attorney was required to prepare for and appear at several hearings in several courts the last two weeks and has had a trial and a day long Post Conviction Relief hearing this week. These have impeded the attorney's ability to prepare the initial brief.

Accordingly, appellant respectfully asks the Court to grant a first 30-day extension of time to file the initial brief under Rule 234 (b), SCACR. Counsel for Appellant has no objection to the Motion.



Leland B. Greeley  
128 East Main Street, Suite 102  
Post Office Box 2981  
Rock Hill, South Carolina 29732  
(803) 329-0088  
Attorney for Respondent

October 10, 2012

Other Counsel of Record:

Arthur Kerr Aiken  
Robert R. Reeves  
Reeves, Aiken & Hightower, LLP  
Baxter Commerce Center, 2<sup>nd</sup> Floor  
1012 Market Street, Suite 205  
Fort Mill, SC 29708  
Attorneys for Appellants

IN THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Appellate Case No. 2012-208267

RECEIVED

OCT 12 2012

SC Court of Appeals  
Appellant,

Ida Lord, . . . . . Appellant,

v.

D & J Enterprises, Inc. d/b/a Cash on the Spot . . . . . Respondent.

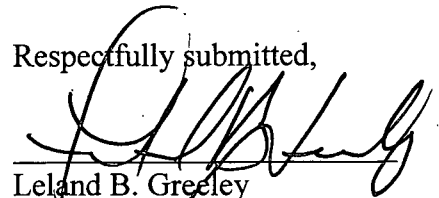
**PROOF OF SERVICE**

I certify that I have served the Motion to an Extension to File Respondent's Initial Brief and Designation of Matter on each attorney of record as follows:

Robert J. Reeves, Esq.  
REEVES, AIKEN & HIGHTOWER, LLP  
1012 Market Street, Suite 205  
Fort Mill, SC 29708

Arthur K. Aiken, Esq.  
REEVES, AIKEN & HIGHTOWER, LLP  
2231 Devine Street, Suite 201  
Columbia, SC 29205

Respectfully submitted,



Leland B. Greeley  
128 East Main Street, Suite 102  
Post Office Box 2981  
Rock Hill, South Carolina 29732  
(803) 329-0088  
Attorney for Respondent

Rock Hill, South Carolina

October 10, 2012.

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of General Sessions

John C. Hayes, III, Circuit Court Judge

Case No. 2012-208267

Ida Lord.....Appellant.

v.

D & J Enterprises, Inc. ....Respondent.

**DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON  
APPEAL**

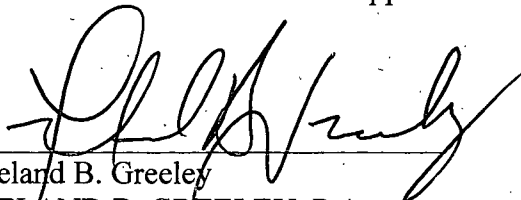
Respondent proposes the additional matter from that of the Appellant be included  
in the Record on Appeal:

1. Deposition of Marcia Boyd: pp. 17 - 25:
2. Court Sentencing Records of Phillip Watts.
3. Indictment 2008-GS46-2090 and 2090A
4. Affidavit of Willy Thompson and related video.

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NOV 29 2012  
**SC Court of Appeals**

I certify that this designation contains no matter which is irrelevant to this appeal.

November 27, 2012.

  
 Leland B. Greeley  
 LELAND B. GREELEY, P.A.  
 P.O. Box 2981  
 Rock Hill, SC 29732  
 (803) 329-0088  
 Attorney for Respondent

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of General Sessions

John C. Hayes, III, Circuit Court Judge

Case No. 2012-208267

Ida Lord.....Appellant.

v.

D & J Enterprises, Inc. ....Respondent.

CERTIFICATE OF SERVICE

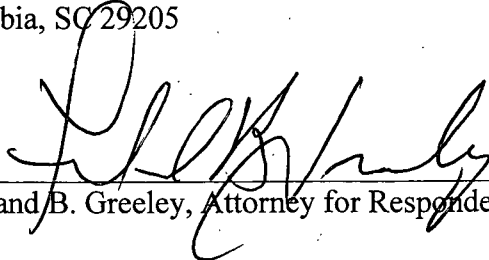
I, Leland B. Greeley, hereby certify that I have served Respondent's DESIGNATION OF MATTER and INITIAL BRIEF by depositing two (2) copies in the United States Mail, postage prepaid this the 27th day of November 2012, on:

Robert J. Reeves, Esq.  
REEVES, AIKEN & HIGHTOWER, LLP  
1012 Market Street, Suite 205  
Fort Mill, SC 29708

Arthur K. Aiken, Esq.  
REEVES, AIKEN & HIGHTOWER, LLP  
2231 Devine Street, Suite 201  
Columbia, SC 29205

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NOV 29 2012

SC Court of Appeals

  
Leland B. Greeley, Attorney for Respondents

LELAND B. GREELEY, P.A.  
ATTORNEY

128 EAST MAIN STREET, SUITE 102  
ROCK HILL, SOUTH CAROLINA

Post Office Box 2981  
Rock Hill, SC 29732

(803)329-0088  
FAX: (803)329-4310

E Mail: LGreeley@LBGreeleylaw.com

November 27, 2012

The Honorable Jenny A. Kitchip  
Clerk of the South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

RE: *Ida Lord v. D & J enterprises, Inc*  
Case No.: 2012-208267

Dear Ms. Kitchip:

Enclosed for filing with your office please find the original Respondent's Initial Brief and Designation of Matter in the above-referenced matter, a Certificate of Service along with five copies of each.

With kindest regards, I remain

Very truly yours,



Andrea Thomas, Paralegal, for  
Leland B. Greeley  
Attorney for Respondent

cc: Client

Robert J. Reeves, Esq. (w/ encls.), Attorney for Appellate  
Arthur K. Aiken, Esq. (w/ encls.), Attorney for Appellate

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NOV 29 2012  
SC Court of Appeals

# The South Carolina Court of Appeals

Ida Lord, Appellant,

v.

D & J Enterprises, Inc. d/b/a Cash on the Spot,  
Respondent.

Appellate Case No. 2012-208267

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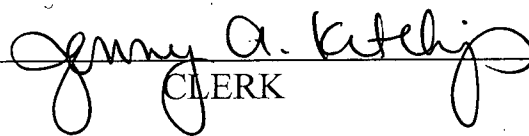
ORDER

---

The time for serving and filing the respondent's initial brief and designation of matter is hereby extended until November 28, 2012.

FOR THE COURT

BY

  
CLERK

Columbia, South Carolina

cc:

Leland B. Greeley

Arthur Kerr Aiken

Robert J. Reeves

**FILED**

*EC* 11/13/12

ROBERT J. REEVES +  
ARTHUR K. AIKEN +  
A. BEA HIGHTOWER +  
GREGORY D. SPINK +  
J. TYLER BURNS +



**Reeves, Aiken & Hightower LLP**  
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\*Licensed in SC ♦Licensed in NC

December 7, 2012

The Honorable Tonya Gee  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
CA No: 2012208267  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed for filing please find the original and three copies of the Appellant's Motion for Extension of Time to File Appellant's Initial Reply Brief in the above-referenced matter. Please return the date-stamped copies to me in the enclosed, self-addressed stamped envelope at your earliest convenience.

Also enclosed please find our firm's check in the amount of \$25.00 to cover the filing fee.

Please do not hesitate to contact me if you have any questions or need anything further.

Sincerely,

Andrea Stobbe, RP  
Paralegal for Reeves, Aiken and Hightower  
[andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

Enclosures

cc: Leland B. Greeley  
York County Clerk of Court  
Ida Lord

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DEC 10 2012

SC Court of Appeals

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66520

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

MOTION FOR EXTENSION OF TIME

The Appellant, Ida Lord, hereby moves, in accordance with Rule 224 SCACR, for a ten (10) day extension of time to file and serve her initial reply brief. These filings are now due on December 7, 2012. This extension will make these filings due on or before December 17, 2012. The reasons supporting this extension are set forth on the attached Affidavit of the Appellant's attorney, Arthur K. Aiken.

WHEREFORE, the Appellant prays that this Court enter an order granting this extension.

Arthur K. Aiken (SC Bar No. 12983)  
Robert J. Reeves  
Reeves, Aiken & Hightower, LLP  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: art@aikenandhightower.com  
ATTORNEYS FOR APPELLANTS

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December 7, 2012  
Columbia, SC

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

Ida Lord.....Plaintiff/Appellant

v.


D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

AFFIDAVIT OF ARTHUR K. AIKEN

The undersigned, Arthur K. Aiken, personally appearing before me and having been duly sworn, deposes and says:


1. I am the attorney for the Appellant in the above captioned case.
2. My client's initial reply brief is now due on December 7, 2012.
3. I find myself unable to meet this deadline because of a criminal trial in Richland County General Sessions Court.
4. There have been no prior extensions of the above deadline in this appeal.
6. I request that this Court grant me a ten (10) day extension to make the above filings.

FURTHER YOUR AFFIANT SAYETH NAUGHT



Arthur K. Aiken

SWORN to and SUBSCRIBED before me this  
7<sup>th</sup> day of December, 2012



Notary Public for South Carolina  
My Commission Expires: February 5, 2017

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671


Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

PROOF OF SERVICE

I certify that I have served the Appellant's Motion for Extension of Time to File Initial Reply Brief on Respondent's counsel by mailing a copy of the above to Leland B. Greeley, Leland B. Greeley. PA, PO Box 2981, Rock Hill, SC 29732 on December 7, 2012.



Andrea Stobbe, RP  
Reeves, Aiken & Hightower, PA  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: andrea@aikenandhightower.com

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DEC 10 2012

SC Court of Appeals

ROBERT J. REEVES +  
ARTHUR K. AIKEN +  
A. BEA HIGHTOWER +  
GREGORY D. SPINK +  
J. TYLER BURNS +



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PLEASE REPLY TO:

December 17, 2012

The Honorable Tonya Gee  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
Case Tracking No: 2012208267  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed for filing please find the original and two (2) copies of Appellant's Initial Reply Brief with attached Proof of Service in the above-referenced matter. Please return the date stamped copies to me in the enclosed, self-addressed, stamped envelope at your earliest convenience.

By copy of this letter I am serving a copy of Appellant's Initial Reply Brief on all attorneys of record in this matter.

Please do not hesitate to contact me if you have any questions or need anything further.

Thank you for your assistance in this matter.

Sincerely,

Andrea Stobbe  
Paralegal for Reeves, Aiken and Hightower, LLP  
[andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

Enclosures

cc: Leland B. Greeley

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DEC 18 2012

SC COURT OF APPEALS

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

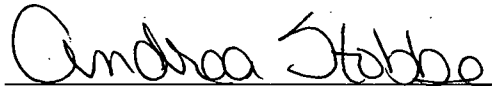
Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

PROOF OF SERVICE

I certify that I have served the Appellant's Initial Reply Brief on all parties by mailing a copy of the Initial Brief and Designation of Matter to each attorney of record: Leland B. Greeley, Leland B. Greeley. PA, PO Box 2981, Rock Hill, SC 29732 on December 17, 2012.



Andrea Stobbe, Paralegal  
Reeves, Aiken & Hightower, LLP  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: andrea@aikenandhightower.com

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DEC 18 2012

**SC Court of Appeals**

# The South Carolina Court of Appeals

Ida Lord, Appellant,

v.

D & J Enterprises, Inc. d/b/a Cash on the Spot,  
Respondent.

Appellate Case No. 2012-208267

The Honorable John C. Hayes, III  
York County  
Trial Court Case No. 2009CP4602671

---

## ORDER

---

Appellant's request for an extension to serve and file appellant's initial reply brief is granted. Appellant's reply brief has been received and is accepted as filed.

FOR THE COURT

BY V. Claire Allen, Deputy  
CLERK

Columbia, South Carolina

cc:  
Leland B. Greeley

FILED  
JLG 12-20-12

Arthur Kerr Aiken  
Robert J. Reeves

ROBERT J. REEVES +  
ARTHUR K. AIKEN +  
A. BEA HIGHTOWER +  
GREGORY D. SPINK +  
J. TYLER BURNS +



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PLEASE REPLY TO:

January 15, 2013

The Honorable Tonya Gee  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
CA No: 2012208267  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed for filing please find the original and three copies of the Appellant's Motion for Extension of Time to serve the Record on Appeal in the above-referenced matter. Please return the date-stamped copies to me in the enclosed, self-addressed stamped envelope at your earliest convenience.

Also enclosed please find our firm's check in the amount of \$25.00 to cover the filing fee.

Please do not hesitate to contact me if you have any questions or need anything further.

Sincerely,

Andrea Stobbe, RP  
Paralegal for Reeves, Aiken and Hightower  
[andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

Enclosures

cc: Leland B. Greeley  
York County Clerk of Court  
Ida Lord

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SC Court of Appeals

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

66940

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

Ida Lord.....Plaintiff/Appellant

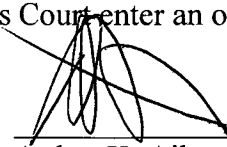
v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

MOTION FOR EXTENSION OF TIME

The Appellant, Ida Lord, hereby moves, in accordance with Rule 224 SCACR, for a seven (7) day extension of time to serve the Record on Appeal on Respondent. This is now due on January 16, 2013. This extension will make the Record on Appeal due to be served on or before January 23, 2013. The reasons supporting this extension are set forth on the attached Affidavit of the Appellant's attorney, Arthur K. Aiken.

WHEREFORE, the Appellant prays that this Court enter an order granting this extension.



Arthur K. Aiken (SC Bar No. 12983)  
Robert J. Reeves  
Reeves, Aiken & Hightower, LLP  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: art@aikenandhightower.com  
ATTORNEYS FOR APPELLANTS

January 15, 2013  
Columbia, SC

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JAN 18 2013

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

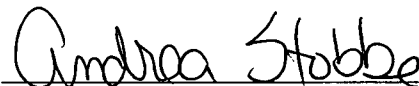
Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

PROOF OF SERVICE

I certify that I have served the Appellant's Motion for Extension of Time to serve the Record on Appeal on Respondent's counsel by mailing a copy of the above to Leland B. Greeley, Leland B. Greeley, PA, PO Box 2981, Rock Hill, SC 29732 on January 15, 2013.



Andrea Stobbe, Paralegal  
Reeves, Aiken & Hightower, PA  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: andrea@aikenandhightower.com

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

Ida Lord.....Plaintiff/Appellant

v.

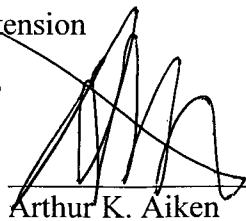
D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

AFFIDAVIT OF ARTHUR K. AIKEN

The undersigned, Arthur K. Aiken, personally appearing before me and having been duly sworn, deposes and says:

1. I am the attorney for the Appellant in the above captioned case.
2. The Record on Appeal is due to be served on January 16, 2013.
3. I find myself unable to meet this deadline because of multiple magistrate trials in Richland County Summary Court and hearings in Richland County Court of Common Pleas.
4. There have been no prior extensions of the above deadline in this appeal.
6. I request that this Court grant me a seven (7) day extension to make the above filings.
7. Attorney for Respondent consents to this extension

FURTHER YOUR AFFIANT SAYETH NAUGHT

  
Arthur K. Aiken

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JAN 18 2013

SC Court of Appeals

SWORN to and SUBSCRIBED before me this  
15<sup>th</sup> day of January \_\_\_\_\_, 2013

Andrea Stobbe

Notary Public for South Carolina  
My Commission Expires: February 5, 2017

ROBERT J. REEVES +  
ARTHUR K. AIKEN +  
A. BEA HIGHTOWER +  
GREGORY D. SPINK +  
J. TYLER BURNS +



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PLEASE REPLY TO:

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January 24, 2013

The Honorable Tonya Gee  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
Case Tracking No: 2012208267  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed for filing please find the original and two (2) copies of Appellant's Proof of Service of the Record on Appeal and Certificate of Counsel in the above-referenced matter. Please return the date stamped copies to me in the enclosed, self-addressed, stamped envelope at your earliest convenience.

By copy of this letter I am serving a copy on all attorneys of record in this matter.

Please do not hesitate to contact me if you have any questions or need anything further.

Thank you for your assistance in this matter.

Sincerely,

Andrea Stobbe  
Paralegal for Reeves, Aiken and Hightower, LLP  
[andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

Enclosures

cc: Leland B. Greeley

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SC Court of Appeals

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COLUMBIA, SC 29205

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

---

Case No. 2009-CP-46-2671

---

Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

---

PROOF OF SERVICE

---

I certify that I have served the Record on Appeal on all parties by mailing a copy of the Record on Appeal to each attorney of record: Leland B. Greeley, Leland B. Greeley, PA, PO Box 2981, Rock Hill, SC 29732 on February 21, 2012.



Andrea Stobbe, Paralegal  
Reeves, Aiken & Hightower, PA  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: andrea@aikenandhightower.com

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JAN 28 2013  
SC COURT OF APPEALS

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

Ida Lord.....Plaintiff/Appellant

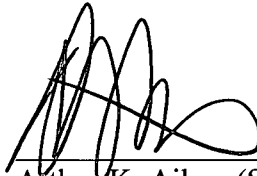
v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

**RULE 210(g) SCACR CERTIFICATE OF COUNSEL**

The undersigned hereby certifies that the Record on Appeal contains all materials proposed to be included by any of the parties and not any other material.

January 24, 2013



Arthur K. Aiken (SC Bar No. 12983)  
Robert J. Reeves (SC Bar No. 12906)  
Reeves, Aiken & Hightower, LLP  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: art@aikenandhightower.com  
ATTORNEYS FOR APPELLANT

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JAN 28 2013

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

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SC Ct of Appeals

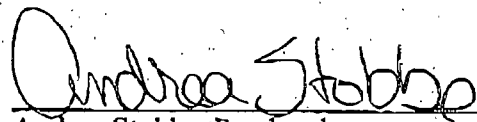
Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

PROOF OF SERVICE

I certify that I have served the Record on Appeal on all parties by mailing a copy of the Record on Appeal to each attorney of record: Leland B. Greeley, Leland B. Greeley, PA, PO Box 2981, Rock Hill, SC 29732 on January 24, 2013.



Andrea Stobbe, Paralegal  
Reeves, Aiken & Hightower, PA  
2231 Devine Street, Suite 201  
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ROBERT J. REEVES +  
ARTHUR K. AIKEN +  
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PLEASE REPLY TO:

February 17, 2013

South Carolina Court of Appeals  
Attn: Diane  
Post Office Box 11629  
Columbia, SC 29211

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
Case Tracking No: 2012208267  
Circuit Court Case No.: 2009-CP-46-2671

**RECEIVED**  
FEB 19 2013  
SC Court of Appeals

Dear Diane:

Per our conversation, enclosed for filing please find the original and two (2) copies of Appellant's Amended Proof of Service of the Record on Appeal in the above-referenced matter. The Amended Proof of Service reflects the correct service date as January 24, 2013. Please return the date stamped copies to me in the enclosed, self-addressed, stamped envelope at your earliest convenience.

Please do not hesitate to contact me if you have any questions or need anything further.

Thank you for your assistance in this matter.

Sincerely,

Andrea Stobbe  
Paralegal for Reeves, Aiken and Hightower, LLP  
[andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

Enclosures

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COLUMBIA, SC 29205

ROBERT J. REEVES +  
ARTHUR K. AIKEN +  
A. BEA HIGHTOWER +  
GREGORY D. SPINK +  
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PLEASE REPLY TO:

February 7, 2013

The Honorable Tonya Gee  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
CA No: 2012208267  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed for filing please find the original and three copies of the Appellant's Motion for Extension of Time to File Appellant's Final Brief, Final Reply Brief and Record on Appeal in the above-referenced matter. Please return the date-stamped copies to me in the enclosed, self-addressed, stamped envelope at your earliest convenience.

Also enclosed please find our firm's check in the amount of \$25.00 to cover the filing fee.

Please do not hesitate to contact me if you have any questions or need anything further.

Sincerely,

Andrea Stobbe  
Paralegal for Reeves, Aiken and Hightower  
[andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

Enclosures

cc: Leland B. Greeley  
York County Clerk of Court  
Ida Lord

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FEB 11 2013  
SC COURT OF APPEALS

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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

6728

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

Ida Lord.....Plaintiff/Appellant

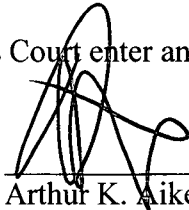
v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

MOTION FOR EXTENSION OF TIME

The Appellant, Ida Lord, hereby moves, in accordance with Rule 224 SCACR, for a seven (7) day extension of time to file and serve her Final Brief, Final Reply Brief and Record on Appeal. These filings are now due on February 11, 2013. This extension will make these filings due on or before February 18, 2013. The reasons supporting this extension are set forth on the attached Affidavit of the Appellant's attorney, Arthur K. Aiken.

WHEREFORE, the Appellant prays that this Court enter an order granting this extension.



Arthur K. Aiken (SC Bar No. 12983)  
Robert J. Reeves  
Reeves, Aiken & Hightower, LLP  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: art@aikenandhightower.com  
ATTORNEYS FOR APPELLANTS

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FEB 11 2013

SC Court of Appeals

February 7, 2013  
Columbia, SC

1st

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671


Ida Lord.....Plaintiff/Appellant

v.

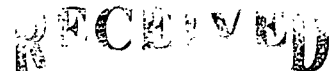
D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

PROOF OF SERVICE

I certify that I have served the Appellant's Motion for Extension of Time to File her Final Brief, Final Reply Brief and Record on Appeal on Respondent's counsel by mailing a copy of the above to Leland B. Greeley, Leland B. Greeley, PA, PO Box 2981, Rock Hill, SC 29732 on February 7, 2013.



Andrea Stobbe, Paralegal  
Reeves, Aiken & Hightower, PA  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: andrea@aikenandhightower.com



FEB 11 2013

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

AFFIDAVIT OF ARTHUR K. AIKEN

The undersigned, Arthur K. Aiken, personally appearing before me and having been duly sworn, deposes and says:

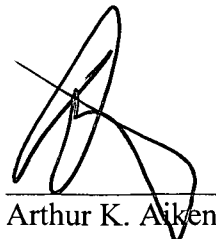
1. I am the attorney for the Appellant in the above captioned case.
2. My client's Final Brief, Final Reply Brief and Record on Appeal are now due on February 11, 2013.
3. I find myself unable to meet this deadline because of a multiple trials.
4. There have been no prior extensions of the above deadline in this appeal.
5. Attorney for Respondent consents to this extension.
6. I request that this Court grant me a seven (7) day extension to make the above filings.

FURTHER YOUR AFFIANT SAYETH NAUGHT

RECEIVED

FEB 11 2013

SC Court of Appeals

  
Arthur K. Aiken

SWORN to and SUBSCRIBED before me this

7th day of February, 2013

Andrea Hobbs  
Notary Public for South Carolina

My Commission Expires: 2/5/17

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

---

Case No. 2009-CP-46-2671

---

Ida Lord.....Plaintiff/Appellant

v.

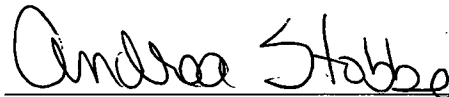
D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

---

AMENDED PROOF OF SERVICE

---

I certify that I have served the Record on Appeal on all parties by mailing a copy of the Record on Appeal to each attorney of record: Leland B. Greeley, Leland B. Greeley, PA, PO Box 2981, Rock Hill, SC 29732 on February 21, 2013.



---

Andrea Stobbe, Paralegal  
Reeves, Aiken & Hightower, PA  
2231 Devine Street, Suite 201  
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Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: [andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

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FEB 1 2 2013

SC Court of Appeals

ROBERT J. REEVES \*\*  
ARTHUR K. AIKEN \*\*  
A. BEA HIGHTOWER +  
GREGORY D. SPINK \*  
J. TYLER BURNS +



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PLEASE REPLY TO:

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February 11, 2013

South Carolina Court of Appeals  
Attn: Diane  
Post Office Box 11629  
Columbia, SC 29211

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
Case Tracking No: 2012208267  
Circuit Court Case No.: 2009-CP-46-2671

Dear Diane:

Per our conversation, enclosed for filing please find the original and two (2) copies of Appellant's Amended Proof of Service of the Record on Appeal in the above-referenced matter. The Amended Proof of Service reflects the correct service date as February 21, 2013. Please return the date stamped copies to me in the enclosed, self-addressed, stamped envelope at your earliest convenience.

By copy of this letter I am serving a copy on all attorneys of record in this matter.

Please do not hesitate to contact me if you have any questions or need anything further.

Thank you for your assistance in this matter.

Sincerely,

Andrea Stobbe  
Paralegal for Reeves, Aiken and Hightower, LLP  
[andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

Enclosures

cc: Leland B. Greeley

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FEB 12 2013

COURT OF APPEALS

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COLUMBIA, SC 29205

# The South Carolina Court of Appeals

Ida Lord, Appellant,

v.

D & J Enterprises, Inc. d/b/a Cash on the Spot,  
Respondent.

Appellate Case No. 2012-208267

The Honorable John C. Hayes, III  
York County  
Trial Court Case No. 2009CP4602671

---

## ORDER

---

The proof of service for the record on appeal has been received and is accepted as filed. The appellant's final brief and final reply brief must be served and filed, and the record on appeal must be filed within seven (7) days of the date of this order.

FOR THE COURT

BY V. Claire Allen, Deputy  
CLERK

Columbia, South Carolina

**FILED**

RG 2-20-13

cc:

Leland B. Greeley

Arthur Kerr Aiken  
Robert J. Reeves

ROBERT J. REEVES +♦  
ARTHUR K. AIKEN ++  
A. BEA HIGHTOWER +  
GREGORY D. SPINK ♦  
J. TYLER BURNS +



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February 17, 2013

South Carolina Court of Appeals  
Attn: Diane  
Post Office Box 11629  
Columbia, SC 29211

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
Case Tracking No: 2012208267  
Circuit Court Case No.: 2009-CP-46-2671

Dear Diane:

Per our conversation, enclosed for filing please find the original and two (2) copies of Appellant's Amended Proof of Service of the Record on Appeal in the above-referenced matter. The Amended Proof of Service reflects the correct service date as January 24, 2013. Please return the date stamped copies to me in the enclosed, self-addressed, stamped envelope at your earliest convenience.

Please do not hesitate to contact me if you have any questions or need anything further.

Thank you for your assistance in this matter.

Sincerely,

Andrea Stobbe  
Paralegal for Reeves, Aiken and Hightower, LLP  
[andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

Enclosures

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FEB 21 2013  
SC Court of Appeals

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COLUMBIA, SC 29205

ROBERT J. REEVES +  
ARTHUR K. AIKEN +  
A. BEA HIGHTOWER +  
GREGORY D. SPINK +  
J. TYLER BURNS +



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PLEASE REPLY TO:

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February 19, 2013

The Honorable Tonya Gee  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
CA No: 2012208267  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed for filing please find the original and three copies of the Appellant's Second Motion for Extension of Time to File Appellant's Final Brief, Final Reply Brief and Record on Appeal in the above-referenced matter. Please return the date-stamped copies to me in the enclosed, self-addressed, stamped envelope at your earliest convenience.

Also enclosed please find our firm's check in the amount of \$25.00 to cover the filing fee.

Please do not hesitate to contact me if you have any questions or need anything further.

Sincerely,

Andrea Stobbe  
Paralegal for Reeves, Aiken and Hightower  
[andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

Enclosures

cc: Leland B. Greeley

**RECEIVED**

FEB 22 2013

**SC Court of Appeals**

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COLUMBIA, SC 29205

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

61344

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

Ida Lord.....Plaintiff/Appellant

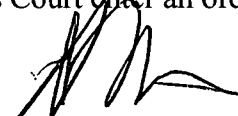
v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

MOTION FOR EXTENSION OF TIME

The Appellant, Ida Lord, hereby moves, in accordance with Rule 224 SCACR, for a two (2) day extension of time to file and serve her Final Brief, Final Reply Brief and Record on Appeal. These filings are now due on February 19, 2013. This extension will make these filings due on or before February 21, 2013. The reasons supporting this extension are set forth on the attached Affidavit of the Appellant's attorney, Arthur K. Aiken.

WHEREFORE, the Appellant prays that this Court enter an order granting this extension.



Arthur K. Aiken (SC Bar No. 12983)  
Robert J. Reeves  
Reeves, Aiken & Hightower, LLP  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: art@aikenandhightower.com  
ATTORNEYS FOR APPELLANTS



February 19, 2013  
Columbia, SC

**RECEIVED**

FEB 22 2013

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

---

Case No. 2009-CP-46-2671

---

Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

---

PROOF OF SERVICE

---

I certify that I have served the Appellant's Motion for Extension of Time to File her Final Brief, Final Reply Brief and Record on Appeal on Respondent's counsel by mailing a copy of the above to Leland B. Greeley, Leland B. Greeley, PA, PO Box 2981, Rock Hill, SC 29732 on February 19, 2013.



Andrea Stobbe, Paralegal  
Reeves, Aiken & Hightower, PA  
2231 Devine Street, Suite 201  
Columbia, SC 29205  
Telephone: 803-799-5205  
Fax: 803-799-5206  
Email: andrea@aikenandhightower.com

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FEB 22 2013

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

John C. Hayes, III, Circuit Court Judge

Case No. 2009-CP-46-2671

Ida Lord.....Plaintiff/Appellant

v.

D&J Enterprises, Inc. d/b/a Cash on the Spot.....Defendant/Respondent

AFFIDAVIT OF ARTHUR K. AIKEN

The undersigned, Arthur K. Aiken, personally appearing before me and having been duly sworn, deposes and says:

1. I am the attorney for the Appellant in the above captioned case.
2. My client's Final Brief, Final Reply Brief and Record on Appeal are now due on February 19, 2013.
3. I find myself unable to meet this deadline because of multiple trials and hearings.
4. There has been one prior extension of the above deadline in this appeal.
6. I request that this Court grant me a two (2) day extension to make the above filings.

FURTHER YOUR AFFIANT SAYETH NAUGHT



Arthur K. Aiken

**RECEIVED**  
FEB 22 2013  
**SC Court of Appeals**

SWORN to and SUBSCRIBED before me this

19th day of February, 2013

Andrea Hobbs  
Notary Public for South Carolina

My Commission Expires: 2/5/17

ROBERT J. REEVES +♦  
ARTHUR K. AIKEN +♦  
A. BEA HIGHTOWER +  
GREGORY D. SPINK ♦  
J. TYLER BURNS +



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February 22, 2013

The Honorable Tonya Gee  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: Ida Lord v. D&J Enterprises, Inc., d/b/a Cash on the Spot  
C/A No: 2012208267  
Circuit Court Case No.: 2009-CP-46-2671

Dear Ms. Gee:

Enclosed for filing please a copy of the video as identified in Respondent's Designation of Matter to be included in the Record on Appeal.

Thank you for your assistance. Please let me know if you have any questions.

Sincerely,

Andrea Stobbe  
Paralegal for Reeves, Aiken and Hightower, LLP  
[andrea@aikenandhightower.com](mailto:andrea@aikenandhightower.com)

Enclosure

cc: Leland B. Greeley (w/o enclosure)  
Robert J. Reeves (w/o enclosure)

**RECEIVED**

FEB 25 2013

**SC Court of Appeals**

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COLUMBIA, SC 29205

# The South Carolina Court of Appeals

Ida Lord, Appellant,

v.

D & J Enterprises, Inc. d/b/a Cash on the Spot,  
Respondent.

Appellate Case No. 2012-208267

The Honorable John C. Hayes, III  
York County  
Trial Court Case No. 2009CP4602671

---

## ORDER

---

The motion for an extension of time for serving and filing the final brief and final reply brief of the appellant is hereby granted. The final brief and final reply brief have been received and are accepted as filed.

FOR THE COURT

BY

*J. A. Kitchip*  
CLERK

**FILED**

*JG 3-14-13*

Columbia, South Carolina

cc:

Leland B. Greeley

Arthur Kerr Aiken  
Robert J. Reeves



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

March 15, 2013

Mr. Leland B. Greeley  
PO Box 2981  
Rock Hill SC 29732

Re: Lord, Ida v. D&J Enterprises, Inc.  
Appellate Case No. 2012-208267

Dear Counsel:

Our records indicate that your Final Brief of Respondent in the above matter should have been served and filed by February 13, 2013. You must file the brief and a Motion to Serve and File Out of Time within ten (10) days of this letter, or any brief subsequently filed may not be considered.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Arthur Kerr Aiken  
Robert J. Reeves

67783

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of General Sessions

John C. Hayes, III, Circuit Court Judge

Case No. 2012-208267

Ida Lord.....Appellant.

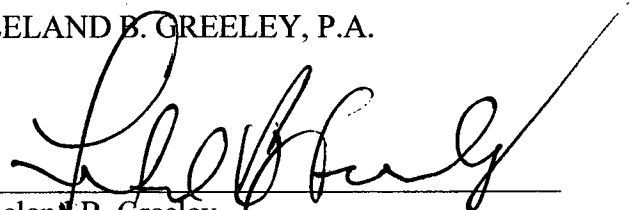
v.

D & J Enterprises, Inc. ....Respondent.

MOTION TO FILE OUTSIDE OF TIME

The Respondent, D & J Enterprises, by and through its undersigned counsel of record, does hereby move this Court to allow Respondent to file its Final Brief outside of the designate time for filing. Counsel for Respondent committed an error of calculation as to the date for filing based on a misreading of an Order regarding filing and the date of receiving the Record on Appeal. It is submitted that no prejudice will fall to the Appellant and the interests of justice will be advanced in the granting of this motion.

LELAND B. GREELEY, P.A.



Leland B. Greeley  
128 E. Main Street, Suite 102  
Post Office Box 2981  
Rock Hill, South Carolina 29732  
(803)329-0088  
[lgreeley@lbgreeleylaw.com](mailto:lgreeley@lbgreeleylaw.com)  
S.C. Bar Number: 7850  
Attorney for Respondent

March 21, 2013.

RECEIVED

MAR 25 2013

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY  
Court of General Sessions

John C. Hayes, III, Circuit Court Judge

Case No. 2012-208267

Ida Lord.....Appellant.

v.

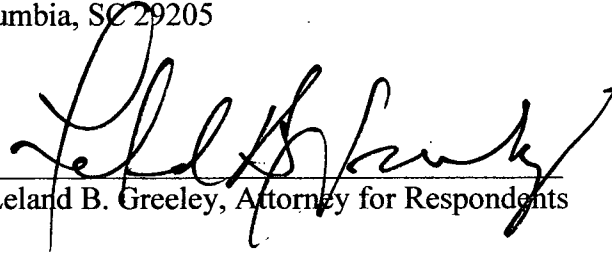
D & J Enterprises, Inc. ....Respondent.

CERTIFICATE OF SERVICE

I, Leland B. Greeley, hereby certify that I have served Respondent's MOTION TO FILE OUTSIDE OF TIME by depositing two (2) copies in the United States Mail, postage prepaid this the 22th day of March 2013, on:

Robert J. Reeves, Esq.  
REEVES, AIKEN & HIGHTOWER, LLP  
1012 Market Street, Suite 205  
Fort Mill, SC 29708

Arthur K. Aiken, Esq.  
REEVES, AIKEN & HIGHTOWER, LLP  
2231 Devine Street, Suite 201  
Columbia, SC 29205

  
Leland B. Greeley, Attorney for Respondents

# The South Carolina Court of Appeals

Ida Lord, Appellant,

v.

D & J Enterprises, Inc. d/b/a Cash on the Spot,  
Respondent.

Appellate Case No. 2012-208267

The Honorable John C. Hayes, III  
York County  
Trial Court Case No. 2009CP4602671

---

## ORDER

---

The motion for serving and filing the respondent's final brief out of time is hereby Granted. The respondent's final brief has been received and accepted as filed.

FOR THE COURT

BY V. Claire Allen, Deputy  
CLERK

**FILED**

JHG 4-1-13

Columbia, South Carolina

cc:

Leland B. Greeley

Arthur Kerr Aiken  
Robert J. Reeves



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

April 25, 2013

Mr. Arthur Kerr Aiken  
2231 Devine St. Ste. 201  
Columbia SC 29205

Re: Lord, Ida v. D&J Enterprises, Inc.  
Appellate Case No. 2012-208267

Dear Counsel:

We have received your CD, which the respondent has designated for inclusion in the record on appeal. The record on appeal must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). Rule 210(c), SCACR. All papers or documents filed with the Court of Appeals must be typewritten or machine duplicated. Rule 267(c). Accordingly, we cannot include the CD as part of the record on appeal. However, we will retain the CD with the file as an exhibit in the case. If you would like for us to order delivery of the trial exhibit from the trial court, you must send a request in writing within 10 days of the date of this letter.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Leland B. Greeley  
Robert J. Reeves