

WILLIAMS MULLEN

Ruth A. Levy, Esq.
Direct Dial: 803.567.4613
rlevy@williamsmullen.com

RECEIVED

Jul 10 2023

SC Court of Appeals

July 10, 2023

VIA ELECTRONIC MAIL ONLY

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211
ctappfilings@sccourts.org

Re: Century Capital Group, LLC v. Midtown Development Group, LLC
Appellate Case No. 2022-001727
Civil Action Case No. 2014-CP-40-07037

Dear Ms. Kitchings:

Respondent Windsor Richland Mall, LP ("Windsor") respectfully requests this Court dismiss Century Capital Group, LLC's ("Century") above-captioned appeal pursuant to Rules 208 & 260, SCACR. Throughout this case, Century has missed court hearings, requested multiple extensions, engaged in delay tactics, and has now missed the deadline for filing its initial brief and designation of matter. This case has gone on long enough.

On September 23, 2022, Circuit Court Judge the Honorable Alison Lee granted Windsor's motion for attorney's fees, awarding Windsor \$71,816.46. Century did not bother to show up for the hearing on Windsor's motion, despite receiving multiple notices of the hearing date both through the Court's electronic system and from counsel for Windsor. See Ex. A, June 19, 2022, email.

Nevertheless, on December 8, 2022, Century appealed Judge Lee's Order, initiating the above-captioned appeal. The transcript was supposedly ordered the same day. After more than two months had passed, counsel for Windsor contacted counsel for Century asking for a status update, as Century had done nothing to check on the status of its transcript order. See Ex. B, February 14, 2023, email. Only after counsel for Windsor had alerted counsel for Century of its lack of a transcript was the transcript delivered, on April 3, 2023 – five months after the appeal was first initiated (and outside of the 60 day window for receiving a transcript under Rule 207(a)(2) & (5), SCACR).

Century then proceeded to request a series of extensions to its initial brief deadline. The first extension was granted on May 2, 2023; the second extension was granted on June 7, 2023. The second extension stated in no uncertain terms that "no further extensions will be granted absent extraordinary circumstances."

Despite this hard deadline, Century failed to file its brief by July 3, 2023. At 7:41 p.m., Century served its brief on the undersigned counsel, but sent its initial brief, designation of matter, and proof of service to the incorrect email address for the Court of Appeals. See Ex. C, July 3, 2023, email. Counsel for Century supposedly did not realize this error until Saturday, at 3:28 p.m.

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Page 2

See Ex. D, July 8, 2023, email. This is odd, because undersigned counsel tested the email address incorrectly used for the Court of Appeals and immediately received an error message. See Ex. E, July 10, 2023, emails entitled "Test." Thus, counsel for Century also would have been immediately notified that it had used the wrong email address and been able to rectify the problem within the five hours left on July 3, before the deadline had passed. Instead, Century waited five days to attempt to correct its misfiling.

Century has missed the deadline by which it was required to perfect its appeal, after two extensions and over six months of delay. Century has had every opportunity to contest the Circuit Court's award of attorney's fees to Windsor. Instead, it has missed court-ordered hearings, engaged in multiple delays, and now missed the filing deadline. Century clearly does not care about this appeal. It should be dismissed before Windsor is required to expend more attorney's fees to obtain the fees it has already been awarded. Windsor is happy to file a Motion if so requested by the Court.

Sincerely,



Ruth Levy
Counsel for Windsor Richland Mall, L.P.

Cc via email: Ryan McCabe, Counsel for Century Capital Group, LLC
Kenneth Whichard

Exhibit A

Levy, Ruth

From: Levy, Ruth
Sent: Tuesday, July 19, 2022 3:37 PM
To: Ryan McCabe; Martin-Rothrock, Kimberly
Cc: ALEELC@sccourts.org; Tamasitis, John; Tyer, Sara; Trippett.boineau@mgclaw.com; robert.thomas@rtt-law.com; Valerie Giovanoli; Deanne Peele
Subject: RE: Century Capital Group LLC vs Midtown Development Group LLC , defendant, et al. / Case Number: 2014CP400737

Ryan – As further proof of notice:

McCabe, Donald Ryan Jr.	7/19/2022 MOTION Roster/Notice of Motions Roster Publication	Action		06/29/
Boineau, Robert Trippett III	7/19/2022 MOTION Roster/Notice of Motions Roster Publication	Action		06/29/
McAlister, Allen Keith Jr.	7/19/2022 MOTION Roster/Notice of Motions Roster Publication	Action		06/29/
Levy, Ruth Ann	7/19/2022 MOTION Roster/Notice of Motions Roster Publication	Action		06/29/
Ravenel, D. Cravens	7/19/2022 MOTION Roster/Notice of Motions Roster Publication	Action		06/29/

Thank you,

Ruth

From: Levy, Ruth
Sent: Tuesday, July 19, 2022 3:35 PM
To: Ryan McCabe <Ryan.McCabe@mccabetrotter.com>; Martin-Rothrock, Kimberly <kmartin-rothrock@williamsmullen.com>
Cc: ALEELC@sccourts.org; Tamasitis, John <jtamasitis@williamsmullen.com>; Tyer, Sara <styer@williamsmullen.com>; Trippett.boineau@mgclaw.com; robert.thomas@rtt-law.com; Valerie Giovanoli <Valerie.Giovanoli@mccabetrotter.com>; Deanne Peele <Deanne.Peele@mccabetrotter.com>
Subject: RE: Century Capital Group LLC vs Midtown Development Group LLC , defendant, et al. / Case Number: 2014CP400737

Ryan,

We received a notice from the Court on June 29, calendaring it for a hearing. You were on the email distribution for the Court, so also would have received the same notice.

Just as you received the Order we submitted, you also received the Affidavit of Attorney's Fees and our Memorandum of Law which we filed seven days ago leading up to the hearing (see attached).

Thank you,

Ruth

Ruth A. Levy | Attorney | Williams Mullen

1230 Main Street, Suite 330 | P.O. Box 8116 (29202) | Columbia, SC 29201
T 919.981.4029 RAL, 803.567.4613 COL | C 919.818.2439 | F 919.981.4300 | rlevy@williamsmullen.com
www.williamsmullen.com

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From: Ryan McCabe <Ryan.McCabe@mccabetrotter.com>

Sent: Tuesday, July 19, 2022 3:15 PM

To: Martin-Rothrock, Kimberly <kmartin-rothrock@williamsmullen.com>

Cc: ALEELC@sccourts.org; Levy, Ruth <rlevy@williamsmullen.com>; Tamasitis, John <jtamasitis@williamsmullen.com>; Tyer, Sara <styer@williamsmullen.com>; Trippett.boineau@mgclaw.com; robert.thomas@rtt-law.com; Valerie Giovanoli <Valerie.Giovanoli@mccabetrotter.com>; Deanne Peele <Deanne.Peele@mccabetrotter.com>

Subject: Re: Century Capital Group LLC vs Midtown Development Group LLC , defendant, et al. / Case Number: 2014CP400737

I am on a family vacation and can't find where I received notice of this hearing. I do not have access to my computer so I will coordinate with my office to figure out what's going on. I would not miss a hearing intentionally I would not miss a hearing intentionally. My apologies My apologies. Thank you, Ryan

Sent from my iPhone

On Jul 19, 2022, at 2:39 PM, Martin-Rothrock, Kimberly <kmartin-rothrock@williamsmullen.com> wrote:

Good afternoon, Judge Lee:

Please find the attached submitted to you on behalf of Attorney Ruth Levy in connection with the above-referenced matter, which was E-Filed with the Court this afternoon following today's hearing regarding same.

Sincerely,

**WILLIAMS
MULLEN**

Kimberly A. Rothrock
Legal Administrative Assistant
T 803.567.4604
[email](#) | [website](#)

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DEBT COLLECTOR: This firm collects debts for our clients who are creditors. Any information obtained will be used for that purpose. However, if you have previously received a discharge in bankruptcy, this message is not and should not be construed as an attempt to collect a debt, but only as an attempt to enforce a lien.

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Exhibit B

Levy, Ruth

From: Ryan McCabe <Ryan.McCabe@mccabetrotter.com>
Sent: Tuesday, February 14, 2023 11:42 AM
To: Levy, Ruth
Cc: James Stewart
Subject: Re: Century v. Windsor Appeal

Ruth,

We did order the transcript. We have not received it yet. Will check status and report back.

James,

Please provide Ruth with copies of all communications with the court reporter.

Thanks
Ryan

Sent from my iPhone

On Feb 14, 2023, at 11:19 AM, Levy, Ruth <rlevy@williamsmullen.com> wrote:

Ryan,

Where does this appeal stand? Under Rule 207, SCACR, the court reporter was supposed to provide written confirmation of your transcript request within 5 days, and deliver it within 60 days, at the latest. You were also supposed to copy me on all correspondence. If you've sent or received any correspondence, etc. from any court reporter, please provide me with a copy before noon tomorrow.

Thank you,

Ruth

Ruth A. Levy | Attorney | Williams Mullen
1230 Main Street, Suite 330 | P.O. Box 8116 (29202) | Columbia, SC 29201
T 919.981.4029 RAL, 803.567.4613 COL | C 919.818.2439 | F 919.981.4300 | rlevy@williamsmullen.com
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Exhibit C

Levy, Ruth

From: Ryan McCabe <Ryan.McCabe@mccabetrotter.com>
Sent: Monday, July 3, 2023 7:41 PM
To: ctappfilings@sccourts.og
Cc: Levy, Ruth; jtamasitis@willaimsmullen.com; Marilyn Gomez
Subject: Century Capital Group, LLC v. Midtown Development, et al; / 2022-001727
Attachments: Appellant's Initial Brief.pdf; Appellant's Designation for Record on Appeal.pdf; Proof of Service.pdf.pdf; Century Capital Group, LLC v. Midtown Development, et al; / 2022-001727

RE: Century Capital Group, LLC v. Midtown Development, et al
C/A No.: 2014-CP-40-07037
Appellate Case No.: 2022-001727
MTB File No.: 000696.00077

Good evening,

Please see attached for filing Appellant's Initial Brief, Designation of Matter, Proof of Service and copy of email serving same upon Counsel of record.

Thank you,
D. Ryan McCabe Jr.
McCabe, Trotter, & Beverly, P.C.
4500 Fort Jackson Blvd., Suite 250
Columbia, SC 29209
Direct: (803) 724-5005
ryan.mccabe@mccabetrotter.com



McCABE, TROTTER & BEVERLY, PC
COMMUNITY ASSOCIATION AND CONSTRUCTION LAW

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Exhibit D

Levy, Ruth

From: Ryan McCabe <Ryan.McCabe@mccabetrotter.com>
Sent: Saturday, July 8, 2023 3:28 PM
To: ctappfilings@sccourts.org
Cc: Levy, Ruth; Tamasitis, John; Marilyn Gomez
Subject: FW: Century Capital Group, LLC v. Midtown Development, et al; / 2022-001727
Attachments: Appellant's Initial Brief.pdf; Appellant's Designation for Record on Appeal.pdf; Proof of Service.pdf.pdf; Century Capital Group, LLC v. Midtown Development, et al; / 2022-001727

Good afternoon,

I just realized that the email addresses were incorrect for the Court and Mr. Tamasitis. I apologize. Please see below and attached.

Thank you,
Ryan

D. Ryan McCabe Jr.
McCabe, Trotter, & Beverly, P.C.
4500 Fort Jackson Blvd., Suite 250
Columbia, SC 29209
Direct: (803) 724-5005
ryan.mccabe@mccabetrotter.com



McCABE, TROTTER & BEVERLY, P.C.
COMMUNITY ASSOCIATION AND CONSTRUCTION LAW

From: Ryan McCabe
Sent: Monday, July 3, 2023 7:41 PM
To: 'ctappfilings@sccourts.org' <ctappfilings@sccourts.org>
Cc: 'rlevy@williamsmullen.com' <rlevy@williamsmullen.com>; 'jtamasitis@willaimsmullen.com' <jtamasitis@willaimsmullen.com>; Marilyn Gomez <Marilyn.Gomez@mccabetrotter.com>
Subject: Century Capital Group, LLC v. Midtown Development, et al; / 2022-001727

RE: Century Capital Group, LLC v. Midtown Development, et al
C/A No.: 2014-CP-40-07037
Appellate Case No.: 2022-001727
MTB File No.: 000696.00077

Good evening,

Please see attached for filing Appellant's Initial Brief, Designation of Matter, Proof of Service and copy of email serving same upon Counsel of record.

Thank you,
D. Ryan McCabe Jr.
McCabe, Trotter, & Beverly, P.C.
4500 Fort Jackson Blvd., Suite 250
Columbia, SC 29209
Direct: (803) 724-5005
ryan.mccabe@mccabetrotter.com



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Exhibit E

Levy, Ruth

From: Levy, Ruth
Sent: Monday, July 10, 2023 10:42 AM
To: ctappfilings@sccourt.org
Subject: Test

**WILLIAMS
MULLEN** | Ruth A. Levy
Attorney
T 919.981.4029 RAL, 803.567.4613 COL
[email](#) | [v-card](#) | [website](#) | [LinkedIn](#)

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Levy, Ruth

From: Mail Delivery Subsystem <MAILER-DAEMON@mx0b-00264101.pphosted.com>
Sent: Monday, July 10, 2023 10:42 AM
To: Levy, Ruth
Subject: Returned mail: see transcript for details
Attachments: Test

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Levy, Ruth

From: Mail Delivery Subsystem <MAILER-DAEMON@mx0b-00264101.pphosted.com>
To: ctappfilings@sccourt.og
Sent: Monday, July 10, 2023 10:42 AM
Subject: Undeliverable: Test

The original message was received at Mon, 10 Jul 2023 10:42:29 -0400
from [https://urldefense.proofpoint.com/v2/url?u=http-3A__m0116603.pops.net&d=DwlBAG&c=Ey4eW6FyjuP3VQxHFMnsZcjQYJ1SR4w9HsYx4wFXyJk&r=wuuNDfGF7HW2w2axTCQgQ1E4j_t5OjF84WRebam0tfQ&m=v8FBaxozAZoTnyjLh021GhPLSY4mWKnYfta72u-JNVd1iFVzLhCo7rcjoBQoyEfX&s=utiZ7_wO8TzoZi5qjLfNLJxaga0aJFoj40ju7-fPwxY&e=\[https://urldefense.proofpoint.com/v2/url?u=http-3A__127.0.0.1&d=DwlBAG&c=Ey4eW6FyjuP3VQxHFMnsZcjQYJ1SR4w9HsYx4wFXyJk&r=wuuNDfGF7HW2w2axTCQgQ1E4j_t5OjF84WRebam0tfQ&m=v8FBaxozAZoTnyjLh021GhPLSY4mWKnYfta72u-JNVd1iFVzLhCo7rcjoBQoyEfX&s=D7NuqgqhATIJ2ZPuvJOHURrBcxmOzr0J4ITIP3OToAg&e= \]](https://urldefense.proofpoint.com/v2/url?u=http-3A__m0116603.pops.net&d=DwlBAG&c=Ey4eW6FyjuP3VQxHFMnsZcjQYJ1SR4w9HsYx4wFXyJk&r=wuuNDfGF7HW2w2axTCQgQ1E4j_t5OjF84WRebam0tfQ&m=v8FBaxozAZoTnyjLh021GhPLSY4mWKnYfta72u-JNVd1iFVzLhCo7rcjoBQoyEfX&s=utiZ7_wO8TzoZi5qjLfNLJxaga0aJFoj40ju7-fPwxY&e=[https://urldefense.proofpoint.com/v2/url?u=http-3A__127.0.0.1&d=DwlBAG&c=Ey4eW6FyjuP3VQxHFMnsZcjQYJ1SR4w9HsYx4wFXyJk&r=wuuNDfGF7HW2w2axTCQgQ1E4j_t5OjF84WRebam0tfQ&m=v8FBaxozAZoTnyjLh021GhPLSY4mWKnYfta72u-JNVd1iFVzLhCo7rcjoBQoyEfX&s=D7NuqgqhATIJ2ZPuvJOHURrBcxmOzr0J4ITIP3OToAg&e=])

----- The following addresses had permanent fatal errors -----

<ctappfilings@sccourt.og>
(reason: 550 Host unknown)

----- Transcript of session follows -----

550 5.1.2 <ctappfilings@sccourt.og>... Host unknown (Name server: sccourt.og.: host not found)