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Sep 22 2023

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Courtney Clyburn Pope, Circuit Court Judge
Trial Court Case No. 2021-CP-07-01078

Appellate Case No. 2023-000581

James Ware, Alisa Ware, Henry Spahr, Elaine Spahr,
Julie Sanders, William Craig Denny, Jeff Toomer,
Allyson Toomer, Louise E. Davis, Donna Nutty,
Thomas J. MacDonald, Michael G. MacDonald,
Susanne B. MacDonald, Arlene Coleman,
William H. McGee, Patti M. MacDonald, Scott M. MacDonald,
Rose F. McGee, Jason DuBose, Amanda DuBose,
Ronald L. Broome, Lawrence E. Jones, D. Diane Burr,
Mark H. Thomas, Kelly C. Thomas, William Matthew Yollo,
Nancy H. Yollo, Joseph DeAngelis, Beth DeAngelis, Shelly Horn,
Theodore Brammer, Allison Brammer, Waymon W. Durden,
Constance C. Durden, David C. Powell,

Respondents,

v.

Beaufort County, HPCCA Ferry Company, Inc.,
and The Daufuskie Island Ferry Service, LLC,

Defendants,

Of which Beaufort County is the

Appellant.

**RETURN OF APPELLANT TO
RESPONDENTS' MOTION TO DISMISS APPEAL**

Appellant Beaufort County submits this Return in opposition to Respondents' Motion to Dismiss Appeal filed on September 14, 2023, regarding the timeliness of the filing of the Final Brief of Appellant, Final Reply Brief of Appellant, and Record on Appeal. What Respondents

contend in their Motion to be "undisputed facts" regarding untimely filing by Appellant are not facts and are very much disputed.

Appellant, through its undersigned attorney, represents to the Court that the Final Brief of Appellant, Final Reply Brief of Appellant, and Record on Appeal were timely filed, as required by SCACR 210 and 211, on September 5, 2023, by hand-delivery to this Court, and were served by mail on all other counsel on that same date. In support of that representation as to timely filing and service, included with this Return as Exhibits are a copy of the cover letter of Appellant's Attorney indicating filing by hand delivery and service by mail on September 5, 2023 (Exhibit 1), a copy of Appellant's filed Proof of Service of the final Briefs of Appellant and Record by mail on September 5, 2023 (Exhibit 2), and copies of the covers of the two Appellant briefs and the two volumes of the Record showing the receipt date stamps of the Clerk of this Court for the date of September 5, 2023 (Exhibit 3) The filed Proof of Service (Exhibit 2) also shows the receipt date stamp of the Clerk for September 5, 2023.

Based on the above, Appellant urges that the filing of the Appellant Final Brief, Appellant Final Reply Brief, and Record on Appeal were timely, and are shown by the records of this Court to have been timely. Appellant further urges that this Court deny the Motion of Respondents to dismiss this appeal.

September 22, 2023

s/Danny C. Crowe
Danny C. Crowe, SC Bar #1480
CROWE LAFAVE GARFIELD & BAGLEY, LLC
2019 Park Street
Columbia, SC 29201
803-724-5728
danny@crowelafave.com

Attorneys for Appellant Beaufort County

**Return of Appellant to Respondents’
Motion to Dismiss Appeal**

Exhibit 1

James Ware, et al. v. Beaufort County, et al.

Appellate Case No. 2023-000581

“Cover Letter dated September 5, 2023”

Danny C. Crowe⁺
Matthew C. LaFave⁺
Mary D. LaFave⁺
Robert D. Garfield
Lee Ellen Bagley*

CROWE  LAFAVE
GARFIELD & BAGLEY

ATTORNEYS AT LAW

Steven R. Spreewers
Laura R. Baer
Douglas E. Leadbitter
Samuel C. McGlothlin
Megan H. Jameson*

⁺Certified Mediator

*Also Licensed in NC

September 5, 2023

Via Hand Delivery

Jenny Abbott Kitchings, Clerk
S.C. Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: James Ware, et al. v. Beaufort County, et al.
Appellate Case No. 2023-000581

Dear Ms. Kitchings:

Please find enclosed for filing one unbound and one bound copy of the Final Brief of Appellant and the Final Reply Brief of Appellant, along with the Proof of Service.

Also, please find enclosed for filing one unbound and one bound copy of the Record on Appeal. The Record on Appeal was previously served on the attorneys of record as shown on the Proof of Service filed on August 17, 2023.

Should you have any questions or concerns, please do not hesitate to contact me. I can be reached by calling (803) 724-5728 or by email at danny@crowelafave.com.

With kind regards,

s/Danny C. Crowe

Danny C. Crowe

DCC/dmb
Enclosures

cc: Thomas C. Taylor, Esquire
Robert M. Deeb, Jr., Esquire

**Return of Appellant to Respondents’
Motion to Dismiss Appeal**

Exhibit 2

James Ware, et al. v. Beaufort County, et al.

Appellate Case No. 2023-000581

“Appellant’s Proof of Service dated September 5, 2023”

IN THE STATE OF SOUTH CAROLINA
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The Daufuskie Island Ferry Service, LLC,

Defendants,

Of which Beaufort County is the

Appellant.

PROOF OF SERVICE

I certify that I have served the Final Brief of Appellant and Final Reply Brief of Appellant on Respondents and Defendants by having a copy of them deposited in the United States Mail, postage prepaid on September 5, 2023, addressed to Thomas C. Taylor, Esquire, Law Offices of Thomas C. Taylor, LLC, P.O. Box 1808, Bluffton, SC 29910-1808; and Robert M. Deeb, Jr.,

Esquire, Novit & Scarminach, P.A., 52 New Orleans Road, Suite 400, Hilton Head Island, SC
29938.

September 5, 2023

s/Danny C. Crowe

Danny C. Crowe, SC Bar #1480

CROWE LAFAVE GARFIELD & BAGLEY, LLC

2019 Park Street

Columbia, SC 29201

803-724-5728

danny@crowelafave.com

**Return of Appellant to Respondents’
Motion to Dismiss Appeal**

Exhibit 3

James Ware, et al. v. Beaufort County, et al.

Appellate Case No. 2023-000581

**“Covers of Appellant’s Briefs and Record on Appeal
with Received Stamp Dated September 5, 2023”**

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FINAL BRIEF OF APPELLANT

Danny C. Crowe, SC Bar #1480
CROWE LAFAVE GARFIELD & BAGLEY, LLC
2019 Park Street
Columbia, SC 29201
803-724-5728
danny@crowelafave.com

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Beaufort County

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FINAL REPLY BRIEF OF APPELLANT

Danny C. Crowe, SC Bar #1480
CROWE LAFAVE GARFIELD & BAGLEY, LLC
2019 Park Street
Columbia, SC 29201
803-724-5728
danny@crowelafave.com

Attorney for Appellant
Beaufort County

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RECORD ON APPEAL
VOLUME 1

Danny C. Crowe
S.C. Bar No. 1480
Crowe LaFave Garfield & Bagley, LLC
2019 Park Street
Columbia, South Carolina 29201
(803) 724-5728
Attorney for Appellant

Thomas C. Taylor
S.C. Bar NO. 5499
Law Office of Thomas C. Taylor, LLC
Post Office Box 1808
Bluffton, South Carolina 29910
(843) 785-5050
Attorney for Respondents

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RECORD ON APPEAL
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Danny C. Crowe
S.C. Bar No. 1480
Crowe LaFave Garfield & Bagley, LLC
2019 Park Street
Columbia, South Carolina 29201
(803) 724-5728
Attorney for Appellant

Thomas C. Taylor
S.C. Bar NO. 5499
Law Office of Thomas C. Taylor, LLC
Post Office Box 1808
Bluffton, South Carolina 29910
(843) 785-5050
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PROOF OF SERVICE

I certify that I have served the Return of Appellant to Respondents' Motion to Dismiss Appeal with corresponding exhibits on Respondents and Defendants by having a copy of it served by electronic mail addressed to their attorneys of record as follows: Thomas C. Taylor, Esquire, at tom@thomastaylorlaw.com and Robert M. Deeb, Jr., Esquire, at rdeeb@ns-lawfirm.com, and by having a copy of it deposited in the United States Mail, postage prepaid, on September 22, 2023, addressed to their attorneys of record as follows: Thomas C. Taylor, Esquire, Law Offices of Thomas C. Taylor, LLC, P.O. Box 1808, Bluffton, SC 29910-1808; and Robert M. Deeb, Jr., Esquire, Novit & Scarminach, P.A., 52 New Orleans Road, Suite 400, Hilton Head Island, SC 29938.

September 22, 2023

s/Danny C. Crowe

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**CROWE LAFAVE
GARFIELD & BAGLEY**

ATTORNEYS AT LAW

September 22, 2023

Steven R. Spreewers
Laura R. Baer
Douglas E. Leadbitter
Samuel C. McGlothlin
Megan H. Jameson*

+Certified Mediator
*Also Licensed in NC

Via Electronic Mail to ctappfilings@sccourts.org
Jenny Abbott Kitchings, Clerk
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With kind regards,

s/Danny C. Crowe

Danny C. Crowe

DCC/dmb
Attachments

cc: Thomas C. Taylor, Esquire (via E-Mail and U.S. Mail)
Robert M. Deeb, Jr., Esquire (via E-Mail and U.S. Mail)