

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

FEB 16 2024

The Honorable R. Keith Kelly, Circuit Court Judge
Case No. 2017-CP-10-01324

SC Court of Appeals

APPELLATE CASE NO. 2023-000898

Steven McLemore and Bonnie Jean Eagle as Natural Parents for the Estate of D. M.,

Plaintiffs,

vs.

Charleston County Parks and Recreation Commission d/b/a James Island County Park;
Yearround Pool Co., Inc.; SGA Architecture; South Carolina Department of Health and
Environmental Control; and John Doe and/or John Doe Corporation,

Defendants.

OF WHOM:

Bonnie Jean Eagle is Appellant

and

Charleston County Parks and Recreation Commission
d/b/a James Island County Park is

Respondent

FINAL REPLY BRIEF OF APPELLANT

Michael H. Wells (S.C. Bar No. 68341)
Coastal Law, LLC
1104 N. Oak Street
Myrtle Beach, SC 29577
Phone: (843) 488-5000
mwells@coastal-law.com

Gene M. Connell, Jr. (S.C. Bar No. 1358)
KELAHER CONNELL & COINNOR, P.C.
The Courtyard, Suite 209
1500 U. S. Highway 17 North
Post Office Drawer 14547
Surfside Beach, South Carolina 29587-4547
(843) 238-5648 (phone)
gconnell@classactlaw.net

Attorneys for Appellant Bonnie Jean Eagle

TABLE OF CONTENTS

Table of Authoritiesii

Argument 1

I. RESPONDENT FAILED TO TIMELY APPEAL THE ORDER APPROVING
SETTLEMENT. 1

Conclusion 1

TABLE OF AUTHORITIES

Cases

Canal Ins. Co. v. Caldwell, 338 S.C. 1, 4, 524 S.E.2d 416, 418 (Ct. App. 1999)..... 1
Elam v. S.C. Dept. of Trans. 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004) 1
USAA v. Clegg, 377 S.C. 643, 661 S.E.2d 791 (2009)..... 1

Rules

Rule 203 (b), SCACR..... 1
Rule 203 (b)(1), SCACR 1

ARGUMENT

I. RESPONDENT FAILED TO TIMELY APPEAL THE ORDER APPROVING SETTLEMENT.

Respondents fail to address the elephant in the room – no appeal was ever filed of Judge McCoy’s Order approving settlement. If Respondent had an issue with that Order they should have appealed after getting notice of the decision. South Carolina law provides a challenge to an Order of the Circuit Court must be filed within thirty (30) days. See Rule 203 (b)(1), SCACR, (notice of appeal must be served within thirty (30) days after receipt of written notice of entry of the order or judgment.). See also *USAA v. Clegg*, 377 S.C. 643, 661 S.E.2d 791 (2009):

Rule 203(b), SCACR, requires a party to serve his notice of appeal within thirty days after receiving written notice of the entry of a final order or judgment, and failure to do so divests this court of subject matter jurisdiction and results in dismissal of the appeal.” *Canal Ins. Co. v. Caldwell*, 338 S.C. 1, 4, 524 S.E.2d 416, 418 (Ct. App. 1999). “The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to ‘rescue’ the delinquent party by extending or ignoring the deadline for service of the notice.” *Elam v. S.C. Dept. of Trans.* 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004).

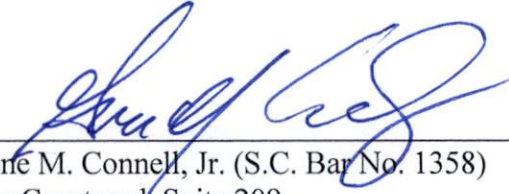
CONCLUSION

In sum, Respondent did not appeal the Order approving the settlement which it had notice of and thus cannot now complain of that ruling as this Court has no jurisdiction.

Respectfully submitted,

(Signature on following page)

KELAHER, CONNELL & CONNOR, P.C.



Gene M. Connell, Jr. (S.C. Bar No. 1358)
The Courtyard, Suite 209
1500 U. S. Highway 17 North
Post Office Drawer 14547
Surfside Beach, South Carolina 29587-4547
(843) 238-5648 (phone)
(843) 238-5050 (facsimile)
gconnell@classactlaw.net

Michael H. Wells (S.C. Bar No. 68341)
Coastal Law, LLC
1104 N. Oak Street
Myrtle Beach, SC 29577
Phone: (843) 488-5000
mwells@coastal-law.com

February 15, 2024

Attorneys for Appellant Bonnie Jean Eagle

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
FEB 16 2024
SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable R. Keith Kelly, Circuit Court Judge
Case No. 2017-CP-10-01324

APPELLATE CASE NO. 2023-000898

Steven McLemore and Bonnie Jean Eagle as Natural Parents for the Estate of D. M.,

Plaintiffs,

vs.

Charleston County Parks and Recreation Commission d/b/a James Island County Park;
Yearround Pool Co., Inc.; SGA Architecture; South Carolina Department of Health and
Environmental Control; and John Doe and/or John Doe Corporation,

Defendants.

OF WHOM:

Bonnie Jean Eagle is Appellant

and

Charleston County Parks and Recreation Commission
d/b/a James Island County Park is

Respondent

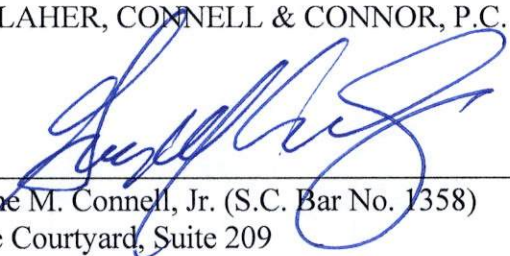
CERTIFICATE OF COUNSEL

The undersigned certifies that this **Final Reply Brief of Appellant** complies with Rule 211(b)

SCACR.

(Signature on following page)

KELAHER, CONNELL & CONNOR, P.C.



Gene M. Connell, Jr. (S.C. Bar No. 1358)
The Courtyard, Suite 209
1500 U. S. Highway 17 North
Post Office Drawer 14547
Surfside Beach, South Carolina 29587-4547
(843) 238-5648 (phone)
(843) 238-5050 (facsimile)
gconnell@classactlaw.net

Michael H. Wells (S.C. Bar No. 68341)
Coastal Law, LLC
1104 N. Oak Street
Myrtle Beach, SC 29577
Phone: (843) 488-5000
mwells@coastal-law.com

February 15, 2024

Attorneys for Appellant Bonnie Jean Eagle