

RECEIVED

Jun 18 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
In The Circuit Court

William A. McKinnon, Circuit Court Judge

Appellate Case No. 2023-001715

MARY M. CROUCH, Trustee of the Samantha D. Delpozo Trust,
Respondent,

v.

ANGELA CROUCH DELPOZO, LINO HOMERO DELPOZO,
ANDREW OLIVER, SAMANTHA D. DELPOZO and all
other persons unknown claiming any right, title, estate, interest
in or lien upon the real estate described in the complaint herein,

of whom ANGELA CROUCH DELPOZO, LINO HOMERO DELPOZO,
ANDREW OLIVER, and SAMANTHA D. DELPOZO are the

Appellants.

MOTION TO RESCIND DISMISSAL
AND TO FILE OUTSIDE TIME

Pursuant to Rules 240 and 263(b), S.C.A.C.R., the Appellants, by their counsel herein, move this Court for an order rescinding the dismissal of this appeal and allowing them to file the Record on Appeal outside time, on the grounds stated below:

1. Both parties have filed their Briefs in this matter. The time for filing the Record on Appeal has passed.
2. On May 20, 2024, the Clerk informed counsel for Appellants by letter that the Record on Appeal had not been filed and was late.
3. By e-mail to the Clerk dated June 3, 2024, counsel for Appellants stated he understood the entire case to be settled, but had not received written verification of that fact. A copy of that e-mail is attached hereto and incorporated herein.

4. By its Order of June 1, 2024, the Clerk dismissed the appeal for failure to file the Record on Appeal.
5. Counsel for Appellants is still given to understand this matter is settled, but despite good faith efforts to that end, has been unable – throughout the events above – to obtain written verification of that fact.
6. With this and succeeding e-mails on this date, counsel for Appellants attaches and seeks to file the Record on Appeal out of time. On knowledge and information, no prejudice is worked to the opposing party by this procedure.

The basis of this Motion is the within-cited Rule, the records of this appeal, and any attached affidavit or stipulation of the undersigned, which items are hereby incorporated in this Motion.

WHEREFORE, the Appellants herein move this Court for an order rescinding the dismissal of this appeal and allowing them to file the Record on Appeal outside time, pursuant to Rule 240 and 263(b), S.C.A.C.R.

February 3, 2012

/s/ John Martin Foster
Post Office Box 106
Rock Hill, South Carolina 29731
803 324-8100
Attorney for Appellants
jmfoster340@gmail.com

Other Counsel of Record:

Rebecca T. McNerney
Attorney for Respondent
200 S. Broome Street
Waxhaw, NC 28173
rebecca@rebeccamcnerneylaw.com

RECEIVED

Jun 18 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
In The Circuit Court

William A. McKinnon, Circuit Court Judge

Appellate Case No. 2023-001715

MARY M. CROUCH, Trustee of the Samantha D. Delpozo Trust,

Respondent,

v.

ANGELA CROUCH DELPOZO, LINO HOMERO DELPOZO,
ANDREW OLIVER, SAMANTHA D. DELPOZO and all
other persons unknown claiming any right, title, estate, interest
in or lien upon the real estate described in the complaint herein,
of whom ANGELA CROUCH DELPOZO, LINO HOMERO DELPOZO,
ANDREW OLIVER, and SAMANTHA D. DELPOZO are the

Appellants.

PROOF OF SERVICE

I certify that I have served the Motion to Rescind Dismissal and to File Outside Time, dated June 18, 2024, on the following counsel or persons of record:

Rebecca T. McNerney
Attorney for Respondent
200 S. Broome Street
Waxhaw, NC 28173
rebecca@rebeccamcnerneylaw.com

by depositing the same with the United States mail, with sufficient first class postage attached, properly addressed to the clerk of the Court, and with a copy also directed to the respective last known address(es) of those attorney(s) and/or persons set out above, pursuant to Rule 262, S.C.A.C.R.

June 18, 2024

/s/ John Martin Foster
Post Office Box 106
Rock Hill, S. C. 29731-6106
803 324-8100
Attorney for Appellants
jmfoster340@gmail.com

Subject: Re: Mary M. Crouch v. Angela Crouch Delpozo- 2023-001715
From: John Martin Foster <jmfoster340@gmail.com>
Date: 6/3/24, 15:47
To: Court Of Appeals Filings <ctappfilings@sccourts.org>, "Evans-Pryor, Khee'Asia" <kpryor@sccourts.org>
CC: "rebecca@rebeccamcnerneylaw.com" <rebecca@rebeccamcnerneylaw.com>

Ms. Evans-Pryor:

I received yours of May 20th. A Motion in response will follow. I write to give the Court a quick statement.

At about the time of the Court's letter of May 20th, my client orally told me this matter, and the underlying Circuit Court case, were settled. I made attempts to confirm this. My client was in the hospital, which prevented communication. As of this date, I am still awaiting confirmation.

I believe that we will be submitting either a Motion to extend the time to file the Record on Appeal, or to dismiss the appeal. I trust that it is proper to inform the Court of this situation. I apologize for the delay.

On 5/20/24 14:45, Evans-Pryor, Khee'Asia wrote:

Dear Counsel,

Attached please find correspondence from the Court of Appeals. **Please do not respond to this email.** Send all correspondence to ctappfilings@sccourts.org. **Any parties not included in this email will receive the attached correspondence via US Mail.**

Respectfully,

Khee'Asia Evans-Pryor

Appeals Specialist 1

South Carolina Court of Appeals

1220 Senate Street, Columbia, SC 29201

803-734-1890

E-filing: ctappfilings@sccourts.org

Website: www.sccourts.org

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

--  
- Martin Foster

[jmfoster340@gmail.com](mailto:jmfoster340@gmail.com)

The Guardian Building 223 East Main Street Suite 520 Rock Hill, SC 29730

P.O. Box 106 Rock Hill, SC 29731-6106

803 324-8100 803 324-8109: Fax

**PRIVILEGED AND CONFIDENTIAL:** This electronic message and any attachments are confidential property of the sender. The information is intended only for the use of the person to whom it was addressed. Any other interception, copying, accessing, or disclosure of this message is prohibited. The sender takes no responsibility for any unauthorized reliance on this message. If you have received this message in error, please immediately notify the sender and purge the message you received. Do not forward this message without permission.

**IRS CIRCULAR 230 DISCLOSURE:** To ensure compliance with requirements imposed by the IRS, we inform you that any US federal tax advice contained in this document is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code Section 6662(d) or (ii) promoting, marketing or recommending to another party any transaction or matter that is contained in this document.