

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

The Honorable Jocelyn Newman, Chief Judge for Administrative Purposes  
The Honorable Joseph M. Strickland  
The Honorable L. Casey Manning  
The Honorable Robert E. Hood

Case No. 2018-CP-40-01318

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Appellate Case No. 2023-001996

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Best Choice Roofing & Home Improvement, Inc.

Appellant,

vs.

Tyler Woods

Respondent.

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**RESPONDENT’S RESPONSE IN OPPOSITION TO APPELLANT’S MOTION FOR  
LEAVE TO FILE RULE 60 MOTION**

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On September 23, 2024, Appellant Best Choice Roofing & Home Improvement, Inc. (“Appellant”) filed its Motion for Leave to File Rule 60 Motion in this Court. In this Motion, Appellant argues that it should be granted leave to return the Order as to Damages entered by the trial court on March 27, 2023, which is currently on appeal, back to the trial court. The purpose of Appellant’s motion is to have the trial court evaluate the matter under Rule 60(b) because Appellant argues that pursuant to Rule 60(b)(2), it is entitled to relief from judgment due to the “newly discovered evidence” that it hired an

attorney which allegedly improperly named it as a plaintiff six years ago who then allegedly stopped updating Appellant about the progress of the litigation Appellant initiated. This Court should deny Appellant's Motion because the relief sought by Appellant is time-barred and brought solely for the purposes of delay.

Appellant explicitly brings this Motion by arguing that Rule 60(b)(1) and (2) would allow it to escape the judgment entered against it on March 27, 2023. Any motion under Rule 60 "shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken." Therefore, any Rule 60(b)(1) or (2) Motion regarding the Order as to Damages here must have been taken by March 27, 2024. Appellant filed the instant Motion on September 23, 2024, almost eighteen months after the Order was entered.

There is no question that a Rule 60(b)(1) and (2) Motion is time-barred. The only conclusion that can be made is that this Motion was entered specifically for the purposes of delaying Appellant's responsibility to file its Reply on September 30, 2024, an effort that has recently been rebuffed by this Court. Rule 269 SCAP states that "Where an appeal, petition, motion or return is frivolous or taken solely for the purposes of delay, or is not in compliance with these Rules, the appellate court may upon its own motion or that of a party, after ten (10) days notice, impose upon offending attorneys or parties such sanctions as the circumstances of the case and discouragement of like conduct in the future may require." The simple fact here is that Appellant has filed a request to file a Rule 60 Motion that is clearly time-barred and the only reason to do so is to cause a delay.

Because Appellant's Motion was filed requesting relief that is firmly time-barred and because it was filed solely to cause delay, this Court should deny Appellant's Motion and impose such sanctions as this Court finds just.

s/Sarah J.M. Cox  
Nekki Shutt (SC Bar No. 8784)  
Sarah J.M. Cox (SC Bar No. 108314)  
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**ATTORNEYS FOR RESPONDENT**

Columbia, South Carolina

September 27, 2024

RECEIVED

Sep 30 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
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Case No. 2018-CP-40-01318  
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Best Choice Roofing & Home Improvement, Inc. . . . . Appellant,

v.

Tyler Woods. . . . . Respondent.

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**PROOF OF SERVICE**

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I certify that **RESPONDENT’S RESPONSE IN OPPOSITION TO APPELLANT’S MOTION FOR LEAVE TO FILE RULE 60 MOTION** was served on the following counsel of record for Appellant on September 27, 2024, via electronic mail under Paragraph (d)(1) of Order re: Methods of Electronic Filing and serve under Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024), Appellate Case No. 2020-000447.

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s/Sarah J.M. Cox  
Sarah J.M. Cox (SC Bar No. 104316)  
*Counsel for Respondent*

## Amy L. Abercrombie

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**From:** Amy L. Abercrombie  
**Sent:** Friday, September 27, 2024 9:48 AM  
**To:** rwidener@burr.com; Harrill, Paul; filing.sc.legal@gmail.com; tjohnson@sc.legal  
**Cc:** Nekki Shutt; Sarah J.M. Cox (she/her); Lydia Robins Hendrix  
**Subject:** Best Choice Roofing v. Tyler Woods - Appellate Case No. 2023-001996  
**Attachments:** 2024-09-27 Response in Opp to Motion for Leave.pdf

Dear Counsel:

I have attached Respondent's Response in Opposition to Appellant's Motion for Leave to File Rule 60 Motion which is being filed with the SC Court of Appeals today.

Kind regards,  
Amy Abercrombie  
9-27-2024