

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

70428

APPEAL FROM LEXINGTON COUNTY  
Frank R. Addy, Jr., Circuit Court Judge

Case No. 2012-CP-32-3208

Raymond Carter, ..... Appellant,

v.

Donnie Myers, Solicitor, Lexington County; Tracey Carroll,  
Assistant Solicitor, Lexington County; Brian Buck,  
Irmo Police Department; Scott Franklin, Irmo Police Department;  
Timothy E. Stephenson, South Carolina Law Enforcement (SLED);  
George White, Ex father-in-law; Tammy Carter,  
(AKA Tammy Scrogam), Ex wife; Barbara Keadle  
(AKA Diane Hinkle) Investigator LDSS; Francis Ross, LDSS;  
Paulette Jolly, Guardian ad Litem, in their official and individual capacities, ..... Defendants,

Of whom, Donnie Myers, Solicitor, Lexington County;  
Brian Buck, Irmo Police Department; Scott Franklin, Irmo Police  
Department, are, ..... Respondents.

**MOTION TO DISMISS APPEAL**

The Respondent Donald V. Myers moves this Court pursuant to Rule 260(a), SCACR, to dismiss the Appellant's appeal based upon the Appellant's failure to serve the Record on Appeal in accordance with the time requirements set forth in Rule 210(a), SCACR.

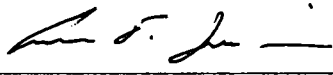
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SC Court of Appeals

The grounds for this motion are set forth in more detail in the supporting memorandum filed herewith.

DAVIDSON & LINDEMANN, P.A.

BY: 

ANDREW F. LINDEMANN  
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*Counsel for Respondent Donald V. Myers*

Columbia, South Carolina

November 18, 2013

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Brian Buck, Irmo Police Department; Scott Franklin, Irmo Police  
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**MEMORANDUM IN SUPPORT OF  
MOTION TO DISMISS APPEAL**

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**SC Court of Appeals**

The Respondent Donald V. Myers has filed a motion pursuant to Rule 260(a), SCACR, requesting the dismissal of the Appellant's appeal based upon the Appellant's failure to serve the Record on Appeal in accordance with the time requirements set forth in Rule 210(a), SCACR.

Rule 210(a), SCACR, provides that "[w]ithin thirty (30) days after service of the last brief,

the appellant shall serve a copy of the Record on Appeal on each party who has served a brief. Proof of service of the Record shall be immediately filed with the clerk of the appellate court." See, Rule 210(a), SCACR. The record reflects that the Respondents Brian Buck and Scott Franklin served their Initial Respondent's Brief on August 7, 2013. The Respondent Myers served his Initial Respondent's Brief on August 12, 2013. The Appellant has not served or filed an initial reply brief. Consequently, the Appellant had until September 11, 2013 (which was thirty days after service of Myers' brief) by which to serve the Record on Appeal. As of the filing date of this motion, no Record on Appeal has been received from the Appellant. Likewise, the Court of Appeals' on-line docket does not reflect the filing of any proof of service for the Record on Appeal.

The Respondent Myers submits that this clear failure to comply with the South Carolina Appellate Court Rules warrants the dismissal of this appeal. The Appellant has had more than two additional months to comply with Rule 210(a) and serve the Record on Appeal, and yet, he has not taken any such action nor even sought an extension. For these reasons, the Respondent Myers respectfully requests that this Court dismiss the Appellant's appeal.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

BY: 

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Columbia, South Carolina

November 18, 2013

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Paulette Jolly, Guardian ad Litem, in their official and individual capacities, ..... Defendants,

Of whom, Donnie Myers, Solicitor, Lexington County;  
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CERTIFICATE OF SERVICE

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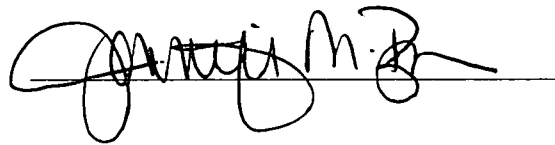
The undersigned employee of Davidson & Lindemann, P.A., attorneys for the Respondent Donnie Myers, does hereby certify that service of the enclosed for filing the originals and one copy each of the **Motion to Dismiss Appeal** and **Memorandum in Support of Motion to Dismiss Appeal** in the above-captioned matter was made upon the *pro se* Appellant, *pro se* Respondents and upon all other known counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 18th day of November 2013:

Mr. Raymond W. Carter  
2219 Leesburg Road  
Columbia, South Carolina 29209-3055

David L. Morrison, Esquire  
Morrison Law Firm, LLC  
7453 Irmo Drive - Suite B  
Columbia, South Carolina 29212

Ms. Tammy A. Kidd  
1246 W. Blue Lick Road  
Shepherdsville, Kentucky 40165

Mr. Timothy E. Stephenson  
709 Old Trolley Road  
Summerville, South Carolina 29485

A handwritten signature in black ink, appearing to read "Timothy E. Stephenson", is written over a horizontal line. The signature is stylized and cursive.

# DAVIDSON & LINDEMANN, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

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Daniel C. Plyler  
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\*Also Admitted In North Carolina  
†Certified Mediator

November 18, 2013

Of Counsel  
Kenneth P. Woodington

Writer's Email: [alindemann@dml-law.com](mailto:alindemann@dml-law.com)

## **Hand Delivered**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
Edgar Brown Building  
1205 Pendleton Street  
Columbia, South Carolina 29201

RE: Raymond Carter v. Donnie Myers, Solicitor, *et al.*  
Appeal Tracking Number: 2013-000449  
Civil Action Number: 2012-CP-32-3208  
Claim Numbers: 88832, 88837, 88839 and 88974  
Our File Number: 103.9071

Dear Ms. Kitchings:

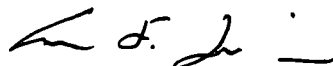
Please find enclosed for filing the originals and seven copies each of the **Motion to Dismiss Appeal and Memorandum in Support of Motion to Dismiss Appeal** in the above referenced matter. Please file the originals and return a clocked-in copy of each document to me by way of my courier. I have also enclosed my firm's \$25.00 check for the filing fee.

By copy of this letter, I am serving copies on the *pro se* appellant, *pro se* respondents, and all other counsel of record.

Thank you for your assistance in this matter.

Sincerely,

DAVIDSON & LINDEMANN, P.A.



Andrew F. Lindemann

AFL/jmb  
Enclosures

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The Honorable Jenny Abbott Kitchings  
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Page Two

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cc: (w/ Enclosures)

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