

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge  
Marvin H. Dukes, III, Master-In-Equity

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Appellate Case No. 2011-204367  
Common Pleas Case No. 2011-CP-07-2546

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DEC 19 2013

SC Court of Appeals

Joseph C. Sun, *Pro se*,

Appellant,

v.

Olesya Matyushevsky,  
Citizens Opposed to Domestic Abuse,  
Christine Varg and Liling Sun,

Respondents.

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**RETURN TO APPELLANT'S MOTION TO REINSTATE APPEAL**

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Respondents Olesya Matushevsky, Citizens Opposed to Domestic Violence, and Christine Varg (collectively "Respondents") oppose the Appellant Joseph Sun's motion to reinstate this appeal because he has failed to show good cause as required by Rule 260(a) of the South Carolina Appellate Court Rules. Appellant's excuses for his failure to follow this Court's applicable procedures are insufficient, and the belated Record on Appeal which he seeks to file is deficient. Further, Respondents have been forced to litigate Appellant's claims in multiple forums over the course of the last four years, and Appellant should not be allowed to delay this litigation further.

The law holds Appellant to the same standard as an attorney with respect to the procedural rules on appeal. All parties, including *pro se* litigants, have a duty to monitor the progress of their case. Goodson v. American Bankers Ins. Co., 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct.App. 1988). Appellant's alleged lack of knowledge or familiarity with recognized procedural deadlines is not a valid excuse for his failure to timely provide the Record on Appeal. Hill v. Dotts, 345 S.C. 304, 897, 547 S.E.2d 894, 310 (Ct.App. 2001) (holding that lack of familiarity with legal proceedings is not an acceptable excuse for layman's failure to timely file an answer). Moreover, Appellant has previously demonstrated that he is familiar with the appellate court rules. He successfully defeated Respondents' earlier motion to dismiss the appeal and filed his own motion to consolidate the appeals of the three separate circuit court orders at issue in this matter. Most tellingly, he sought and received an extension to file his initial reply brief.

Appellant's reasons for missing the deadline for filing the Record on Appeal are insufficient in themselves. He claims that he was busy with other legal proceedings, that he was busy working, and that he was ill for a week. He also professes confusion about the deadline for filing the Record on Appeal while, at the same time, stating that he intended to file for an extension to do so but ran out of time. If Appellant needed an extension, he could have sought one as he had done before.

Perhaps more importantly, the belated Record on Appeal that he has now submitted is seriously deficient. The Record inexplicably omits materials crucial to Respondents' arguments in the case and clearly identified in their Initial Brief and Designation of Matter to be Included in Record on Appeal. These include the Affidavits of Liling Sun and Christine Varg, which are the very documents forming the basis for the circuit court's grant of summary judgment to Respondent Varg. The Record also omits every single page of the two hearing transcripts clearly

cited by Respondents in their Initial Brief. The transcripts of the hearing on the motion to dismiss (March 13, 2012) and of the hearing on the summary judgment motion (July 12, 2012) contain important admissions by Appellant relevant to the issues in this appeal. There is no valid reason for his failure to include matter supporting Respondents' appeal.

Last, Appellant has been pursuing essentially the same claims against the Respondents for over four years. Respondents, in one or more combinations, have been burdened with defending against the claims made in this case in three separate courts. The history of the other litigation is as follows:


Appellant initially filed an action against Respondent Olesya Matyushevsky on July 31, 2009, in the Beaufort County Magistrate Court (Case No. 2009-CV-071041242). Respondent Matyushevsky filed a motion to dismiss and that action was dismissed voluntarily on December 4, 2009. While the Magistrate Court case was pending, Appellant also filed an action against Respondent Matyushevsky in the United States District Court for the District of South Carolina, alleging that Matyushevsky committed RICO violations (Civil Action No. 9:09-cv-02050-RMG-BM). Appellant subsequently amended his Complaint in the federal action to add Citizens Opposed to Domestic Violence as a defendant. On September 21, 2010, the federal court dismissed the case against both Matyushevsky and CODA.

The magistrate court case and federal court case involved largely the same conduct and allegations as those in the present appeal. Reinstatement of the appeal will unduly prolong the burden to which Respondents have been subjected in defending against these claims.

In conclusion, Respondents request that this Court deny Appellant's Motion to Reinstate because he lacks a valid excuse for failing to timely file the Record on Appeal and the belated Record he has filed contains serious deficiencies that cannot, in good faith, be explained.

December 16, 2013

Respectfully submitted,

  
Jackson H. Daniel III (S.C. Bar No. 70308)  
Sarah E. Wetmore (S.C. Bar No. 17235)  
CARLOCK COPELAND & STAIR, LLP  
40 Calhoun Street, Suite 400  
Charleston, South Carolina 29401-3531  
Telephone: (843) 727-0307

- and -

Charles J. Baker III (S.C. Bar No. 486)  
WOMBLE CARLYLE SANDRIDGE & RICE, LLP  
5 Exchange Street  
Post Office Box 999  
Charleston, SC 29402-0999  
Telephone: (843) 722-3400

Attorneys for Respondents Olesya Matyushevsky,  
Citizens Opposed to Domestic Abuse and Christine Varg

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**PROOF OF SERVICE**

I certify that I have served **RESPONDENTS' RETURN TO APPELLANT'S MOTION TO REINSTATE** upon the parties below by depositing a copy of it in the United States Mail, postage prepaid, on December 16, 2013, addressed as follows:

Joseph C. Sun, P.O. Box 151, Bluffton, SC 29910

J. Sam Scoville, Esq., Harvey & Battey, P.A., P.O. Drawer 1107, Beaufort, SC 29901

*Jackson H. Daniel III*  
Jackson H. Daniel, III  
CARLOCK COPELAND & STAIR, LLP

40 Calhoun Street, Suite 400  
Charleston, SC 29401  
(843) 727-0307

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LAW OFFICES

# CARLOCK, COPELAND & STAIR, LLP

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

JACKSON H. DANIEL, III

DIRECT DIAL NUMBER  
843-266-8215

E-MAIL ADDRESS  
jdaniel@carlockcopeland.com

FACSIMILE  
843-727-2995

40 CALHOUN STREET, SUITE 400  
CHARLESTON, SC 29401-3531

TELEPHONE (843) 727-0307

[www.carlockcopeland.com](http://www.carlockcopeland.com)

ATLANTA OFFICE  
191 Peachtree Street, N.E., Suite 3600  
Atlanta, Georgia 30303  
(404) 522-8220

REPLY TO CHARLESTON  
OFFICE

December 16, 2013

**VIA U.S. MAIL**

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, SC 29201

Re: Sun v. Olesya Matyushevsky, Citizens Opposed to Domestic Abuse and  
Christine Varg, et al.  
Appellate Case No: 2011-204367  
Our File No.: 3564-44375

Dear Ms. Kitchings:

Enclosed for filing, please find an original and seven (7) copies of Respondents' Olesya Matyushevsky, Citizens Opposed to Domestic Abuse and Christine Varg Return to Appellant's Motion to Reinstate Appeal. Please file the original and copies and return a file-stamped copy to our office in the self-addressed, stamped envelope.

By copy of this correspondence to all parties, I am serving them with the same. If you have any questions or concerns, please do not hesitate to contact me.

Best regards,

  
JACKSON H. DANIEL, III

JHD:sss  
Enclosures

cc: Joseph C. Sun, *Pro se*  
J. Samuel Scoville, Esq.  
Charles J. Baker, III, Esq.

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