

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

71407

Benjamin H. Culbertson, Circuit Court Judge

Case No. 2011-CP-26-447

Daniel Watier and Tammy Watier,

Respondents,

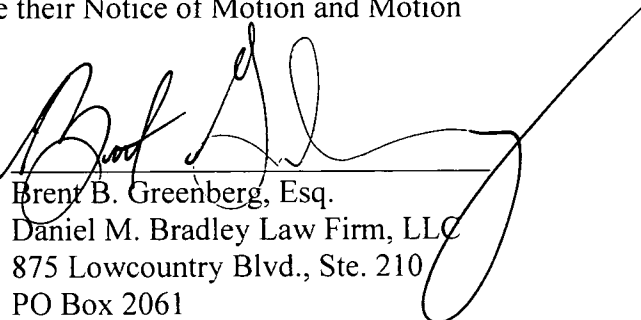
v.

Squirrel Systems, Inc., Kenneth
J. Jackson, and Peggy S. Jackson

Appellants.

**NOTICE OF MOTION AND MOTION TO DISMISS FOR FAILURE TO FILE APPEAL
IN A TIMELY MANNER**

Respondents' Daniel and Tammy Watier hereby file their Notice of Motion and Motion to Dismiss Appeal.


Brent B. Greenberg, Esq.
Daniel M. Bradley Law Firm, LLC
875 Lowcountry Blvd., Ste. 210
PO Box 2061
Mt. Pleasant, SC 29465
Attorneys for Respondent

Other Counsel of Record:
John C. Thomas
107 Lewis Street
Conway, SC 29526
Attorney for Appellants
(843) 248-6277

Kenneth R. Moss
628A Sea Mountain Hwy.
N. Myrtle Beach, SC 29582
Attorney for Appellants
(843) 281-9901

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FEB 28 2014

SC Court of Appeals

This matter comes before the Court upon the motion of the Respondents' attorney who has made an appearance in this action. The Order Appellants have filed their Notice of Appeal is dated November 13, 2013. The same states that it was mailed, "to attorneys of record or to parties (when appearing pro se) as follows: Brent B. Greenberg, John C. Thomas, Kenneth R. Moss." See Order.

Appellate Court Rule 203(b)(1) states, "A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment." Notice of Appeal was not filed with the South Carolina Court of Appeals until January 13, 2014, sixty-one (61) days after its entry. Affidavits from the Horry County Clerk of Court make clear that this particular Order was not only entered on November 13, 2013, but copies of the same were also mailed out first class mail to all attorneys of record. See Affidavit of Melanie Huggins Ward; See also Affidavit of Bridgette Williamson.

Counsel for Respondents received Notice of Entry of Judgment on November 15, 2013, roughly two (2) days after its entry, despite having an office nearly one-hundred (100) miles from Horry County. For the above reasons, Respondents respectfully request this Court to dismiss this Appeal upon the grounds of Appellants' failure to file their Notice of Appeal in a timely manner and in accordance with Appellate Court Rules.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)
)
 Daniel Watier and)
 Tammy Watier)
)
 Plaintiffs,)
)
 vs.)
)
 Squirrel Systems, Inc.,)
 Kenneth J. Jackson and)
 Peggy S. Jackson.)
)
 Defendants.)
 _____)

IN THE COURT OF COMMON PLEAS
 15TH JUDICIAL CIRCUIT

2011-CP-26-447

**AFFIDAVIT OF BRIDGETTE
 WILLIAMSON**

Personally appeared before me the undersigned, who being duly sworn under oath, deposes and says:

1. My name is Bridgette Williamson, I am over the age of 18 and I have personal knowledge of the facts herein.
2. I am employed with the Horry County Clerk of Court office. My title at the Horry County Clerk of Court is Supervisor of Common Pleas. I have been employed in this position from 10-29-07 to present date.
3. After reviewing the records in the Clerk's file for the above-referenced case, Judgment was entered on November 13, 2013.
4. I personally mailed copies of the Order / Judgment to all parties of record not in default on November 13, 2013. This included mailing copies of the Judgment to Plaintiff's attorney, Brent B. Greenberg, along with both counsel for Defendants, John C. Thomas and Kenneth Moss

[Signature Block Follows on Next Page]

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SC Court of Appeals

Date: February 25, 2014

Bridgette Williamson
Bridgette Williamson

SWORN AND SUBSCRIBED before
me this 25 day of February, 2014.

Nancy B. Jones
Notary Public
State of South Carolina

My commission expires:

1-21-2019

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)
)
 Daniel Watier and)
 Tammy Watier)
)
 Plaintiffs,)
)
 vs.)
)
 Squirrel Systems, Inc.,)
 Kenneth J. Jackson and)
 Peggy S. Jackson.)
)
 Defendants.)
)

IN THE COURT OF COMMON PLEAS
 15TH JUDICIAL CIRCUIT

2011-CP-26-447

**AFFIDAVIT OF MELANIE HUGGINS
 WARD**

Personally appeared before me the undersigned, who being duly sworn under oath, deposes and says:

1. My name is Melanie Huggins Ward, I am over the age of 18 and I have personal knowledge of the facts herein.

2. I am ~~employed with~~ ^{mfw} the Horry County Clerk of Court ~~office.~~ ^{mfw} My title at the Horry ~~County Clerk of Court is Department Head.~~ ^{mfw} I have been employed in this position from January 2, 2005 to present date.

3. After reviewing the records in the Clerk's file for the above-referenced case, Judgment was entered on November 13, 2013.

4. One of my deputy clerks, Bridgette Williamson, mailed copies of the Order / Judgment to all parties of record not in default on November 13, 2013. This included mailing copies of the Judgment to Plaintiff's attorney, Brent B. Greenberg, along with both counsel for Defendants, John C. Thomas and Kenneth Moss

[Signature Block Follows on Next Page]

RECEIVED
 FEB 28 2014
 SC Court of Appeals

Date: February 25, 2014

Melanie Huggins Ward
Melanie Huggins Ward

SWORN AND SUBSCRIBED before
me this 25 day of February, 2014.

Nancy B. Jones

Notary Public
State of South Carolina
My commission expires:

1-21-2019

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Case No. 2011-CP-26-447

Daniel Watier and Tammy Watier,

Respondents,

v.

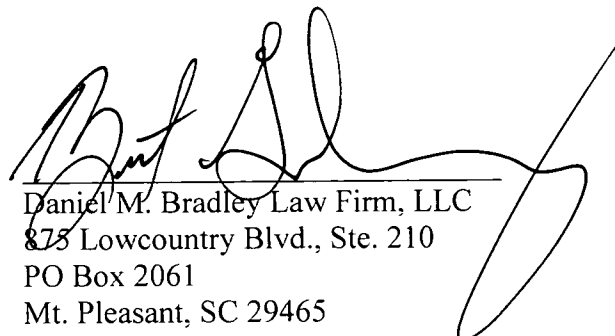
Squirrel Systems, Inc., Kenneth
J. Jackson, and Peggy S. Jackson

Appellants.

PROOF OF SERVICE

I certify that I have served the Notice of Motion & Motion to Dismiss for Failure to File Appeal in a Timely Manner of Respondent on Squirrel Systems, Inc., Kenneth J. Jackson, and Peggy S. Jackson by depositing a copy of it in the United States Mail, postage prepaid, on February 25, 2014, addressed to their attorneys of record, John C. Thomas, 107 Lewis Street, Conway, SC 29526, and Kenneth R. Moss, 628A Sea Mountain Hwy., N. Myrtle Beach, SC 29582.

February 25, 2014


Daniel M. Bradley Law Firm, LLC
875 Lowcountry Blvd., Ste. 210
PO Box 2061
Mt. Pleasant, SC 29465
(843) 424-9817

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SC Court of Appeals



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ATTORNEYS AT LAW

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EMAIL: dmbradleylaw@gmail.com

February 25, 2014

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

RE: Daniel Watier and Tammy Watier v. Squirrel Systems, Inc. et.
al.
Case No.: 2011-CP-26-447
Appellate Case No. 2014-000133

Dear Ms. Kitchings:

Enclosed for filing is a Notice of Motion and Motion to Dismiss for Failure to File Notice of Appeal in a Timely Manner. Also enclosed are the following:

- (1) Proof of Service of the Notice of Motion & Motion to Dismiss on Appellants;
- (2) Affidavits from Horry County Clerk of Court Melanie Huggins Ward, and Horry County Clerk of Court Common Pleas Supervisor Bridgette Williamson; and
- (3) A filing fee of \$25.00

With kind regards,



Brent Greenberg

C.c.: John Thomas, Esq.
Kenneth Moss, Esq.

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SC Court of Appeals

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Mt Pleasant, SC 29465

CHARLESTON SC 294
25 FEB 2014 PM 2 17



The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

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FEB 28 2014

SC Court of Appeals

