

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

W. Jeffrey Young, Circuit Court Judge

Case No.: 2011-CP-40-4068

RECEIVED

MAR 21 2014

SC Court of Appeals

71663

Denise Wright,

Appellant,

vs.

PRG Real Estate Management,
Inc.; Franklin Pineridge Associates;
Karen Campbell Individually, and in
her Representative Capacity as an
Agent of PRG Real Estate Management

Respondents.

**RESPONDENTS' MOTION TO FILE
RESPONDENTS' MOTION TO STRIKE
OUT OF TIME**

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT
OF APPEALS:

Respondents respectfully move this Court for an Order granting them leave to file their Motion to Strike out of time.

Counsel for Respondents represent to this Court that they have been conscientious in their efforts to prepare their Motion to Strike. However, there has been some confusion as to the deadline for filing the motion as a result of communications with staff at the South Carolina Court of Appeals.

Specifically, Appellant served her Initial Reply Brief on February 21, 2014. Although the Appellate Court Rules do not speak to the timing for a Motion to Strike, Respondent docketed the deadline for any applicable response to Appellant's Initial Reply Brief for ten days after service of the brief, or March 3, 2010. See Rule 208(a)(3), SCACR.

On March 3, 2014, and with the consent of Appellant's counsel, Respondent filed a Motion for Extension of Time to File Respondents' Motion to Strike in which Respondent requested until March 13, 2014, to file its motion. See **Exhibit A**. Respondents' counsel prepared the Motion to Strike for filing by the requested deadline. However, on March 11, 2014, Respondents' counsel received a telephone call from Case Specialist Diane Greene at the South Carolina Court of Appeals. Ms. Greene informed Respondents' counsel that she did not understand the basis for the Motion for Extension of Time. Upon speaking further, it became clear to Respondents' counsel that Ms. Greene did not have record of receiving Appellant's Initial Reply Brief. This explained the confusion concerning what time Respondents were seeking to be extended, and the subject of the forthcoming Motion to Strike.

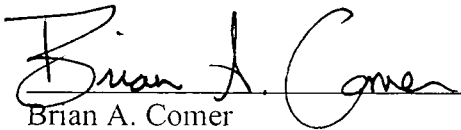
Respondents' counsel memorialized this conversation in an email sent to Ms. Greene on March 11, 2014, at 4:41 p.m., and copied to Appellant's counsel. **Exhibit B**. In accordance with his understanding of the teleconference with Ms. Greene, Respondents' counsel memorialized that Ms. Greene would inform him of the applicable deadline for the Motion to Strike once Appellant's Initial Reply Brief was logged in to the Court. Ms. Green acknowledged receipt of the email at 5:05 p.m. the same day, thanking Respondents' counsel. Id.

On March 18, 2014, Respondents' counsel followed-up with Ms. Greene in another email concerning receipt of Appellant's Initial Reply Brief and the applicable deadline for the Motion to Strike. Id. Ms, Greene did not respond. On March 20, 2014, Respondent's counsel contacted

Ms. Greene to inquire about the deadline, and Ms. Greene responded that the Court received Appellant's Initial Reply Brief on February 24, 2014 and that it "must not have made its way through the system" as of the March 11, 2014 conversation. At this point, Respondents' counsel became uncertain of the applicable deadline for any Motion to Strike in light of the circumstances.

Out of an abundance of caution, and so as to protect their rights, Respondents' now file this Motion to File Respondents' Motion to Strike Out of Time. The Motion to Strike is attached as **Exhibit C**. To the extent the Motion to Strike is untimely, Respondents request that the Court consider the circumstances set forth herein and Respondents' efforts to preserve their rights, as well as Respondents' communications with the Court so as to make a good faith effort to ensure the motion was timely.

Respectfully submitted,
COLLINS & LACY, P.C.

By: 

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(803) 256-2660
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Counsel for Respondents

**RESPONDENTS' MOTION TO FILE
RESPONDENTS' MOTION TO STRIKE
OUT OF TIME**

Columbia, South Carolina
March 21, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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Respondents.

PROOF OF SERVICE

I hereby certify that I served the Respondents' Motion to File Respondents' Motion to Strike Out of Time upon all parties, by placing a copy in the United States mail, postage prepaid, to all counsel of record on March 21, 2014, addressed to the following:

Counsel Served:

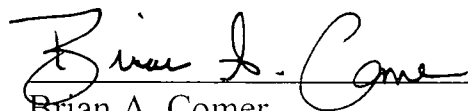
E. Wayne Ridgeway, Jr., Esquire
907 Elwood Avenue
Columbia, SC 29211

S. Randall Hood, Esquire
Jordan C. Calloway, Esquire
Deborah G. Casey, Esquire
McGowan, Hood & Felder, LLC
1539 Health Care Drive
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Gerald Malloy, Esquire
Malloy Law Firm
108 Cargill Way
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Respectfully submitted,
COLLINS & LACY, P.C.

By:



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Counsel for Respondents

Columbia, South Carolina
March 21, 2014

**PROOF OF SERVICE –
RESPONDENTS’ MOTION TO
FILE RESPONDENTS’ MOTION
TO STRIKE OUT OF TIME**

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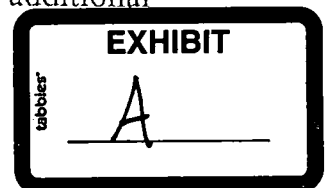
Respondents.

**MOTION FOR EXTENSION OF TIME TO FILE
RESPONDENTS' MOTION TO STRIKE**

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA
COURT OF APPEALS:

Respondents respectfully move this Court for an Order granting them an extension of time in which to file and serve a Motion to Strike.

Counsel for Respondents have been conscientious in their efforts consider and to prepare a Motion to Strike; however, because of the complexity of many of the legal issues attendant in this case, counsel projects they will require additional

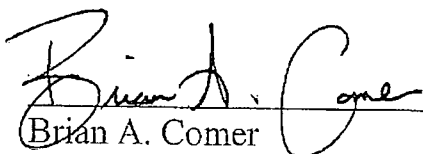


time to complete the analysis. The current deadline is March 3, 2014. Respondents respectfully move for a ten (10) day extension, which would now make the deadline March 13, 2014.

Counsel for Respondents consulted with counsel for Appellant, Jordan C. Calloway, and obtained consent to this motion.

Respondents greatly appreciate the Court's time, attention and assistance with regard to this request.

Respectfully submitted,
COLLINS & LACY, P.C.

By: 
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March 3, 2014
Columbia, South Carolina

Counsel for Respondents.

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Agent of PRG Real Estate Management

Respondents.

PROOF OF SERVICE

I HEREBY CERTIFY THAT I SERVED THE Motion for Extension of
Time to File Respondents' Motion to Strike upon all parties, by placing a copy in
the United States mail, postage prepaid, to all counsel of record on March 3, 2014,
addressed to the following:

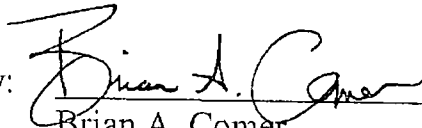
Counsel Served:

E. Wayne Ridgeway, Jr., Esquire
907 Elwood Avenue
Columbia, SC 29211

and

S. Randall Hood, Esquire
Jordan C. Calloway, Esquire
Deborah G. Casey, Esquire
McGowan, Hood & Felder, LLC
1539 Health Care Drive
Rock Hill, SC 29732

Respectfully submitted,
COLLINS & LACY, P.C.

By: 
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Counsel for Respondents.

**PROOF OF SERVICE – MOTION
FOR EXTENSION OF TIME TO
FILE RESPONDENTS' MOTION
TO STRIKE**

March 3, 2014
Columbia, South Carolina

Brian Comer

From: Brian Comer
Sent: Tuesday, March 18, 2014 10:26 AM
To: 'Greene, Diane'
Cc: Jordan Calloway (jordan@mcgowanhood.com)
Subject: RE: Wright v. PRG, Our File Number 1-2055, Case No. 2011-CP-40-4068

Ms. Greene:

I am just following up on the below to determine if the Court has acknowledge receipt of Appellant's reply brief and any deadline for a sur-reply or motion to strike by Respondent. Because of our conversation last week, my impression was to await further instruction from you, so I just wanted to touch base.

Thanks,

Brian

From: Greene, Diane [<mailto:dgreene@sccourts.org>]
Sent: Tuesday, March 11, 2014 5:05 PM
To: Brian Comer
Subject: RE: Wright v. PRG, Our File Number 1-2055, Case No. 2011-CP-40-4068

Thank you so much !

Diane Greene
Case Specialist
SC Court of Appeals
dgreene@sccourts.org

From: Brian Comer [<mailto:bcomer@collinsandlacy.com>]
Sent: Tuesday, March 11, 2014 4:41 PM
To: Greene, Diane
Cc: Jordan Calloway (jordan@mcgowanhood.com); wayne@burrisslaw.com; randy hood (rhood@mcgowanhood.com)
Subject: Wright v. PRG, Our File Number 1-2055, Case No. 2011-CP-40-4068

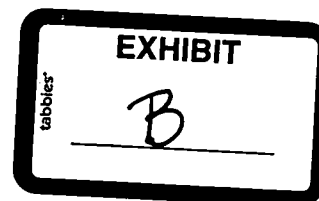
Ms. Greene:

It was nice talking to you today. Attached is Appellant's Reply Brief. This was the last filing in the above-referenced case, and was the subject of our motion for extension (which, I apologize, was not apparent from the motion itself).

By copy to opposing counsel, I'm informing them of our conversation and that your system did not show receipt of their Reply Brief. As you indicated, it may just still be making its way to you and/or your system. Regardless, they served it, and we received it.

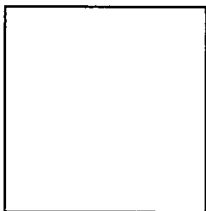
With regard to the deadline for any responsive filing by Respondent, please let me know once you have conferred internally in light of the circumstances.

Best regards,



Brian A. Comer
Counsel for Respondents

Brian Comer
Direct Line: (803) 255-0446
vcard



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