

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Edward W. Miller, Presiding Judge

Case Number: 2013-CP-23-1833
Appellate Case No. 2013-001645

D&C Builders, Inc.....Appellant,

v.

Richard M. Buckley and Wells Fargo National Association, Defendants,
And Richard M. Buckley, Third-Party Plaintiff,

v.

Scott Dodenhoff, Third-Party Defendant

of whom:

Richard M. Buckley Respondent,

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SC Court of Appeals

**RETURN TO RESPONDENT'S MOTION FOR EXTENSION OF TIME
TO FILE INITIAL BRIEF AND DESIGNATION OF MATTER**

Appellant, D&C Builders, Inc., by and through its undersigned attorney and pursuant to Rule 240(e), SCACR, hereby opposes the motion by Respondent, Richard M. Buckley, for an extension of time to file his initial brief and designation of matter.

Appellant's initial brief and designation of matter were filed with the Court and served on Respondent on November 12, 2013 making Respondent's initial brief and

designation of matter originally due on December 12, 2013. Respondent then filed a motion to dismiss on November 27, 2013, thereby staying the time for filing his initial brief and designation of matter. The Court denied Respondent's motion to dismiss by Order filed March 10, 2014 and by letter of the Court dated March 10, 2014, Respondent was required to file and serve his initial brief within thirty (30) days of that date, which would be April 9, 2014. Respondent has therefore had a total of five (5) months from receiving Appellants brief and designation in which to prepare his filings and was fully aware of the Court's instruction thirty (30) days ago that his initial brief and designation were due on April 9, 2014, yet waited until the day such filing was due to request an extension.

Appellant fully disagrees with Respondent that the granting of this request will not prejudice the parties or unduly delay this appeal. The underlying case from which this appeal arises is a mechanic's lien foreclosure action brought by the Appellant against Respondent seeking the collection of funds owed for construction work performed. As the continuation of the underlying case is dependent on the conclusion of this appeal, any unnecessary delay in this appeal necessarily is prejudicial to the Appellant as it further delays the time it will take to complete the underlying foreclosure action to recover the funds owed. The only benefit of further delay in the filing of Respondent's initial brief and designation is to the Respondent, therefore, the granting of an additional thirty (30) days extension would be prejudicial to the Appellant and must be considered an unnecessary delay when the Respondent has previously had five (5) months and specifically the past thirty (30) days for such preparation.

Appellant also disagrees with any implication by Respondent that there are ongoing settlement negotiations and additional time may allow this matter to be resolved by the parties within an extended time frame. Although discussions have taken place, it is clear the parties disagree on one particular relief requested by Appellant that makes any settlement highly unlikely. Appellant does not believe additional time will change either party's position and will not aid in a resolution.

In the event the Court is inclined to grant an extension of time for Respondent to file his initial brief and designation, which Appellant continues to oppose, Appellant would request that (i) in light of the five (5) months Respondent has already had and (ii) in light of the additional time Respondent has gained simply by filing the motion for an extension, that the amount of the additional time extended be reduced to no more than seven (7) additional days.

Respondent's motion for an extension of time should be denied given the time already allowed for preparation and that granting such request will prejudice the Appellant and only benefit Respondent. However, if such request is granted, the additional time allowed should be shortened to no more than seven (7) days.

Respectfully submitted,

April 9, 2014


Brian A. Martin
S.C. Bar # 9791
Brian A. Martin, LLC
212 Trade Street
Greer, South Carolina 29651
(864) 879-7779
ATTORNEY FOR APPELLANT

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v.

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And Richard M. Buckley, Third-Party Plaintiff,

v.

Scott Dodenhoff, Third-Party Defendant

of whom:

Richard M. Buckley Respondent,

PROOF OF SERVICE

I hereby certify that that I have served a true copy of Appellant's Return to Respondent's Motion for Extension of Time to File Initial Brief and Designation of Matter on Respondent and all parties of record by depositing a copy in the United States Mail, first class postage prepaid, on April 9, 2014, addressed to their attorneys of record as follows:

M. Stokely Holder, Esq.
Kenison, Dudley & Crawford, LLC
704 E. McBee Avenue
Greenville, South Carolina 29601

H. Stewart James, Esq.
Babb & Brown, P.C.
505 W. Butler Rd.
Greenville, South Carolina 29607

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Thomas A. Shook, Esq.
Finkel Law Firm, LLC
Post Office Box 71727
North Charleston, South Carolina 29415

I further certify pursuant to Rule 224(e), that Respondent's Motion for Extension of Time to File Initial Brief and Designation of Matter was received by the undersigned via e-mail on April 8, 2014.

April 9, 2014

A handwritten signature in black ink, appearing to read "Brian A. Martin", written over a horizontal line.

Brian A. Martin
Brian A. Martin, LLC
S.C. Bar # 9791
212 Trade Street
Greer, South Carolina 29651
(864) 879-7779

ATTORNEY FOR APPELLANT



BRIAN A. MARTIN, LLC
ATTORNEY AT LAW

April 9, 2014

VIA U.S. MAIL AND FAX: 803-734-1839

Honorable Jenny Abbot Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: *D&C Builders, Inc. v. Richard M. Buckley, et al.*
Greenville County Case #: 2013-CP-23-1833
Appellate Case No. 2023-001645

Dear Ms. Kitchings:

Please find enclosed for filing in the above referenced matter an original and seven (7) copies each of Appellant's Return to Respondent's Motion For Extension of Time to File Initial Brief and Designation of Matter in opposition to such motion, along with the required Proof of Service. I would appreciate your filing the original and returning one clocked copy to me in the enclosed self-addressed stamped envelope.

By copy of this letter, I am serving the same on all other parties via their counsel of record.

Thank you in advance for your assistance. Should you have any questions or need additional information, please do not hesitate to contact my office.

Sincerely,

Brian A. Martin

Enclosures (Originals by U.S. Mail)

cc: M. Stokely Holder, Esquire
H. Stewart James, Esquire
Thomas A. Shook, Esquire

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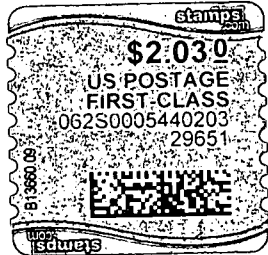
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