

THE SOUTH CAROLINA COURT  
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

T. Scott Beck, Commission

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Appellate Case No. 2013-000300

\_\_\_\_\_

Trial Court Case No. 0922191

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**RECEIVED**  
APR 07 2014  
**SC Court of Appeals**

Larry Dinkins, .....Appellant,

v.

Apex Tool Group, Employer,  
and  
Indemnity Insurance Company c/o ACE USA/ESIS, ..... Respondents.

Appellate Case No. 2013-00300

Trial Court Case No. 0922191

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

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Pursuant South Carolina Appellate Court Rule 224(e) Respondents hereby oppose Appellant's Motion to Reinstate his Appeal to the Court in the above-referenced action. Such opposition is based on the following grounds:

1. The Appellate record will reflect that Appellant initially filed his Amended Notice of Intent to Appeal the Decision and Order from the South Carolina Workers' Compensation in April 2013. Thereafter, Appellant filed three Motions for Extension to

file their Initial Brief and Designation of Matter to be included in the record on appeal. Following the third Motion, the Court granted the extension but stated “[n]o further extensions will granted absent extraordinary circumstances” (emphasis added) via Order dated September 26, 2013. Extension to file was granted until October 9, 2013. (Exhibit 1).

2. Despite the Court’s Order indicating that another extension would not be granted absent extraordinary circumstances, Appellant filed a fourth Motion for Extension on or about October 9, 2013. Via Order dated October 22, 2013, the Court denied Appellant’s Motion to extend, but stated that it would treat this case as part of the Court’s Pilot Program for the Voluntary Mediation of workers’ compensation appeals. The Court stated that the time for filing initial briefs and designation of matter would only be extended for an additional 60 days.
3. Thereafter, Mediation was tentatively set for November 26, 2013, but defense counsel notified Appellant’s attorney’s office via email dated November 18, 2013 that Respondents were not interested in mediation and that the mediation would be cancelled. (See Appellant’s Exhibit 2 to their Motion to Reinstate Appeal).
4. Although subsequent email correspondence between Appellant’s and Respondents’ counsel suggest that voluntary mediation was still an option, no agreement to mediate was ever reached and another date for mediation was never set. Although Appellant’s counsel relies upon email from Respondents’ counsel dated November 18, 2013 for the proposition that he was unsure of Respondents’ intentions to mediate, no further action was taken to clarify Respondents’ position until March 17, 2014, mere days before the

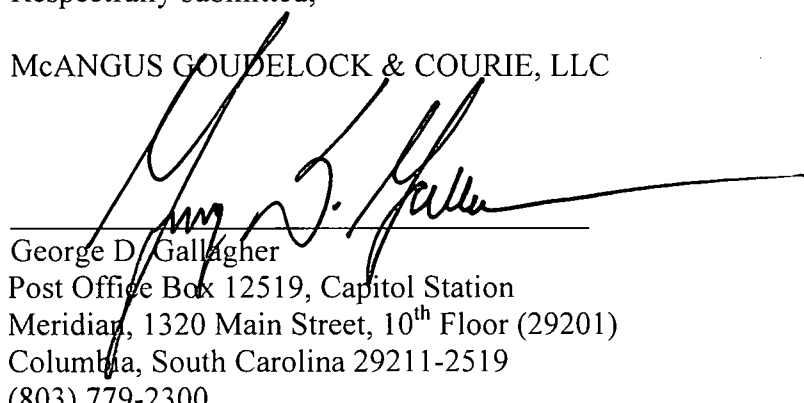
Court advised Appellant that his brief and designation of matter would finally be due following the previous stays.

5. Respondents submit that Appellant has failed to show good cause as to why his Appeal should be reinstated for the **fifth** time. Respondents' counsel appreciates the Appellant's counsel's acknowledgement that there was no intention by Respondents to mislead Appellant in order to secure an involuntary dismissal. However, Respondents argue that the totality of the course of dealing between the respective counsel following November 18, 2013 confirm that there was no genuine interest or intent on the part of the Respondents to mediate this claim. As such, Appellant's failure to timely file his initial brief and designation of matter cannot be excused.

**WHEREFORE** Respondents respectfully request that the Appellant's Motion to Reinstatement be DENIED and this matter be remitted back to the South Carolina Workers' Compensation Commission in accordance with Rule 221 SCACR.

Respectfully submitted,

McANGUS GOUDELOCK & COURIE, LLC



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(803) 779-2300

April 7, 2014

Attorneys for Respondents

# The South Carolina Court of Appeals

Larry Dinkins, Appellant,

v.

Cooper Tools, Inc., and Indemnity Insurance Company  
c/o ACE USA/ESIS, Respondents.

Appellate Case No. 2013-000300

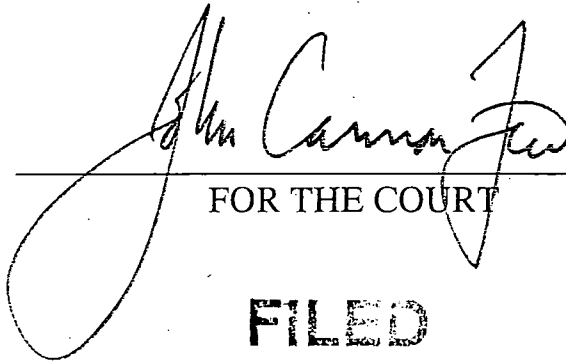
Trial Court Case No. 0922191

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## ORDER

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The time for serving and filing the appellant's initial brief and designation of matter is hereby extended until October 9, 2013. No further extensions will be granted absent extraordinary circumstances.

  
C.J.  
FOR THE COURT

Columbia, South Carolina

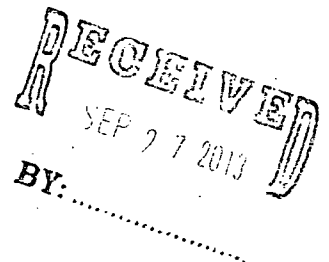
**FILED**

SF 9/20/13

cc:

William Ceth Land

Landon L. Hughey



THE SOUTH CAROLINA COURT  
In The Court of Appeals

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\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

I hereby certify that I have this 7th day of April 2014, caused to be served a copy of Respondents' Return to Appellant's Motion to Reinstate Appeal by mailing a copy of same, postage prepaid, in the United States mail, with sufficient postage affixed as follows:


**BY HAND DELIVERY**

The Honorable Jenny Abbot Kitchings  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29211

**BY HAND DELIVERY**

Virginia L. Crocker, Judicial Director  
1333 Main Street, Suite 500  
Columbia, South Carolina 29201

William Ceth Land, Esquire  
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