

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

ORDER

This appeal was dismissed on February 19, 2014, because Appellant failed to file an initial brief and designation of matter, as required by Rules 208 and 209 of the South Carolina Appellate Court Rules. Appellant has filed a petition for rehearing. On February 13, 2013, Appellant filed a notice of appeal in this case, and in a September 9, 2013 order, this Court granted Appellant a third extension to file his initial brief and designation of matter, specifically providing, "No further extensions will be granted absent extraordinary circumstances." On October 9, 2013, Appellant requested a fourth extension and represented the parties had scheduled mediation for November 26, 2013. As indicated in its prior order, this Court denied Appellant's request for a fourth extension on October 22, 2013, but treated the case as part of the Pilot Program for Voluntary Mediation of Workers' Compensation Appeals. Therefore, the Court suspended the time to file Appellant's initial brief and designation of matter for sixty days to allow for mediation. *See Re: Pilot Program for the Voluntary Mediation of Workers' Compensation Appeals*, S.C.Sup.Ct. Order dated September 22, 2011 (providing "the time for ordering the transcript or serving and filing the initial briefs and designation of matter shall be suspended for up to sixty days to enable the parties to mediate the dispute"). In a November 18, 2013 e-mail attached to the petition for rehearing, one of the Respondents stated they refused to participate in a mediation and "[Appellant's] attorney was informed of this on October 16, 2013." The parties never mediated the case. On February 27, 2014, this Court sent correspondence warning Appellant he must file his initial brief and designation of matter within fifteen days or his appeal would be dismissed. In a March 19, 2014 order, this

Court dismissed the current appeal because Appellant failed to timely file his initial brief and designation of matter. This dismissal occurred over five months after Appellant was notified Respondents did not want to mediate the case, which indicates Appellant was fully informed he needed to serve and file an initial brief and designation of matter. Thus, after careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

John Cannon, Jr. C.J.
Paul G. Shortz J.
James W. Curator A.J.

Columbia, South Carolina

cc:
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FILED
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