

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Jr., Circuit Court Judge

Case No. 2011-CP-42-2538
Appellate Case No. 2014-000902

RECEIVED

OCT 20 2014

SC Court of Appeals

Gary G. Harris, Appellant,

v.

Tietex International, Ltd., Respondent.

**RETURN IN OPPOSITION TO
APPELLANT'S SECOND MOTION TO EXTEND TIME**

Respondent Tietex International, Ltd. ("Tietex") submits this Return in Opposition to Appellant Gary G. Harris' ("Harris") second Motion to Extend Time.

Harris' deadline to submit his Initial Reply Brief under Rule 208(a)(3) was October 16, 2014, as Tietex filed and served its Initial Brief of Respondent on October 6, 2014.¹ Rather than filing his Reply Brief, Harris waited until the day of his deadline and submitted his second Motion to Extend Time and asked that all deadlines be stayed pending a ruling on the Motion.

To explain the alleged need for his second extension, Harris contends that "during the original ten day reply window [his counsel] prepared for and appeared for oral

¹ Harris' Motion inaccurately represents October 17, 2014, as his deadline.

argument before the Court of Appeals, and also prepared for a summary judgment hearing.” These are all events of which Harris’ counsel was certainly well aware long before Tietex even filed its Initial Brief of Respondent. However, rather than requesting an extension at that time, he waited until the day of his deadline.

This has become a pattern. Harris’ Initial Brief and Designation of Matter to be Included in the Record on Appeal were due to be served no later than June 9, 2014. Harris failed to do so. Instead, Harris submitted a Motion to Extend Time to File Initial Brief and Designation of Matter on June 13, 2014—four days after his deadline had already passed—providing a very questionable explanation for why he allegedly required the extension.²

On June 20, 2014, Tietex moved to dismiss Harris’ appeal based on his failure to comply with South Carolina Appellate Court Rules 207, 208, and 209.³ On August 6, 2014, the Court denied Tietex’s Motion to Dismiss and ordered Harris to serve his Initial Brief and Designation of Matter to be Included in the Record on Appeal within thirty days. Thus, when all was said and done, Harris received a three-month extension from his initial deadline.

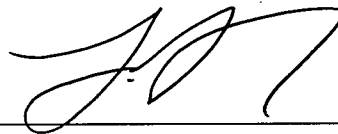
² Harris contended he needed the extension “because he recently obtained appellate counsel to research and prepare these pleadings.” This explanation was questionable because (1) his appellate counsel is the same counsel who represented him in the lower court in this same matter and who briefed and argued the very summary judgment issue Harris now appeals, and (2) Harris’ counsel made an appearance in this appeal on May 20, 2014—24 days before filing his first Motion to Extend Time.

³ In addition to Harris’ failure to timely serve his Initial Brief and Designation of Matter to be Included in the Record on Appeal, Harris also violated Rule 207(a)(1) by failing to furnish Tietex, the Office of Court Administration, and the clerk the appellate court copies of all correspondence with the court reporter.

Notwithstanding the three-month extension he already received, Harris now seeks to delay this matter again by requesting yet another extension and requesting that all deadlines be stayed while his Motion is considered. Tietex has been dealing with this case for over six years. Tietex desires a resolution of this matter. Holding Harris' feet to the fire and requiring him to comply with the Rules is the immediate solution.

Harris has repeatedly disregarded the South Carolina Appellate Court Rules in this matter. Accordingly, Tietex requests that the Court deny Harris' second Motion to Extend Time, order that initial briefing be closed, and order that Harris proceed to his requirements under Rule 210, SCACR.

Respectfully submitted,



Fred W. Suggs, Jr.
Lucas J. Asper
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
300 North Main Street, Suite 500
Greenville, South Carolina 29601
(864) 271-1300 (telephone)
(864) 235-8806 (facsimile)
fred.suggs@ogletreedeakins.com
lucas.asper@ogletreedeakins.com

ATTORNEYS FOR RESPONDENT

October 16, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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J. Derham Cole, Jr., Circuit Court Judge

Case No. 2011-CP-42-2538
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Gary G. Harris, Appellant,

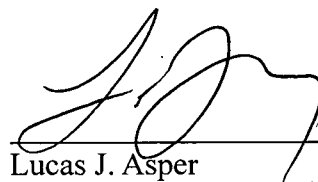
v.

Tietex International, Ltd., Respondent.

PROOF OF SERVICE

I certify that I have served the Return in Opposition to Appellant's Second Motion to Extend Time on Appellant Gary G. Harris by sending to his attorneys of record a copy of the same via first class mail, properly addressed, postage prepaid at the following addresses: D. Alan Lazenby, Ginger D. Goforth, Lazenby Law Firm, Post Office Box 6099, Spartanburg, South Carolina 29304, and via electronic mail.

October 16, 2014



Lucas J. Asper

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SC Court of Appeals

Ogletree Deakins

**OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.**

Attorneys at Law

The Ogletree Building
300 North Main Street, Suite 500 (29601)
Post Office Box 2757
Greenville, SC 29602
Telephone: 864.271.1300
Facsimile: 864.235.4754
www.ogletreedeakins.com

October 16, 2014

The Honorable Jenny Abbott Kitchings
Clerk of Court for the Court Of Appeals
1015 Sumter Street
Columbia, SC 29201

Re: Gary G. Harris v. Tietex International, Ltd.
Case No.: 2011-CP-42-4538
Appellate Case No.: 2014-000902

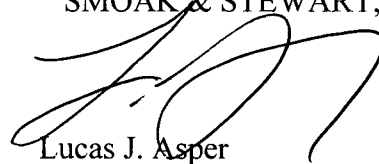
Dear Ms. Kitchings:

Enclosed for filing are the original and seven (7) copies of the Respondent's Return in Opposition to Appellants Second Motion to Extend Time. As appears on the Proof of Service, opposing counsel have been duly served. Please return a stamped "Filed" copy to us in the enclosed prepaid envelope.

Please contact us with any questions or concerns.

Sincerely,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.



Lucas J. Asper

LJA/smc

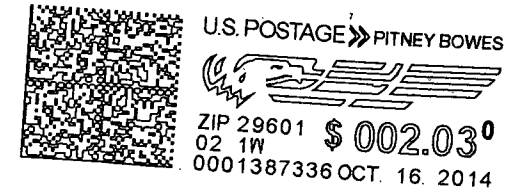
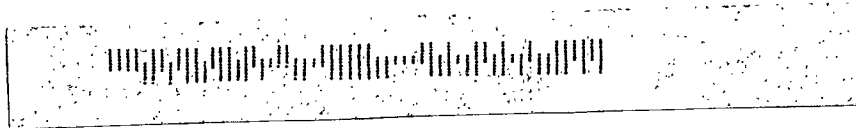
Enclosures

cc: D. Alan Lazenby, Esq. w/ Enc. (via E-mail and U.S. Mail)
Ginger D. Goforth, Esq. w/Enc. (via E-mail and U.S. Mail)

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Deakins**

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
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