

# The South Carolina Court of Appeals

Jackie Hartley, Respondent,

v.

A.P. Karras, LLC d/b/a Eat Well Family Restaurant,  
Andrew P. Karagounis, Lucas Giannatos and Stacy  
Giannatos, Defendants,

Of Whom Lucas Giannatos and Stacy Giannatos are,  
Appellants.

Appellate Case No. 2011-197230

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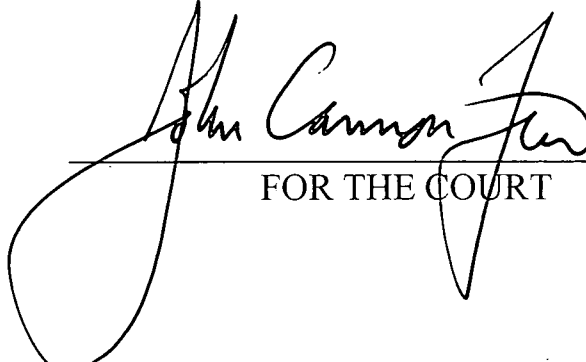
## ORDER

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Appellants filed a Notice of Appeal on August 15, 2011, from (1) an order granting Respondent's motion for summary judgment and (2) an order denying Appellants' Rule 60(b), SCRCP, motion for relief from judgment. Appellants' Notice of Appeal provided they received written notice of the entry of the summary judgment order on February 7, 2011, and received written notice of the entry of the Rule 60(b) order on July 14, 2011. Respondent filed a motion to dismiss, contending that Appellants failed to timely perfect their appeal. Appellants filed a motion for an extension to file a return and also filed the return. After careful consideration, Appellants' motion for an extension is granted and the return is accepted.

As to Respondent's motion to dismiss, the motion is granted as to the order granting summary judgment. A motion for relief from judgment pursuant to Rule 60(b) does not toll the time for the filing of an appeal. *Otten v. Otten*, 287 S.C. 166, 167, 337 S.E.2d 207, 208 (1985). Although a proper Rule 59(e) motion would have tolled the time for the filing of this appeal, this Court has no record of any order denying a Rule 59 motion and thus has no basis to conclude that a Rule 59 motion was ruled upon. Accordingly, the appeal from the order granting

summary judgment is untimely. The appeal from the order denying Appellants' Rule 60(b) motion shall proceed. Within twenty days, Appellants shall amend their initial brief to argue only issues arising from the order denying Appellants' Rule 60(b) motion.

  
FOR THE COURT

Columbia, South Carolina

cc:  
John Martin Foster  
W. Chaplin Spencer, Jr.  
Jeremy Daniel Melville

**FILED**  
8-21-12 YKH