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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
9th Judicial Circuit Court of Common Pleas

RECEIVED

R. Markley Dennis, Circuit Court Judge

JUL 20 2015

SC Court of Appeals

Case No. 2015-000049

Carolina Center for
Occupational Health,

Respondent,

v.

Jack Powell,

Appellant.

RESPONDENT'S MOTION TO DISMISS

The Respondent, Carolina Center for Occupational Health, pursuant to Rule 231, SCACR, moves the Court for an order dismissing the appeal filed by the Appellant.

In support of the motion, the Respondent shows the following to the court:

1. Appellant filed a Notice of Appeal with the Court of Common Pleas for Charleston County, South Carolina on December 22, 2014;
2. Appellant filed a Notice of Appeal with the Court of Appeals on January 2, 2015;
3. Appellant served the Notice of Appeal on Respondent via hand delivery Respondent's place of business on December 22, 2014 (See Exhibit A);
4. Appellant served the Notice of Appeal on Respondent's counsel via U.S. Mail on December 30, 2014 (See Exhibit B);

5. V. Clarie Allen, Deputy Clerk for the Court of Appeals, wrote Appellant on January 26, 2015, notifying Appellant that the time for ordering a transcript expired, and notified Appellant that within ten days of the date of the letter, Appellant “must file a copy of the letter showing that you have ordered the transcript from the court reporter, along with a motion requesting permission to order the transcript outside of the filing deadlines set by Rule 207 of the SCACR” (See Exhibit C);
6. The Deputy Clerk’s letter to Appellant further notified Appellant that “[y]our appeal will be dismissed if no motion is made within ten days of the date of this letter.” *Id.*
7. Appellant has failed to provide a copy of the letter showing that Appellant has ordered the transcript within 10 days of after date of service the Notice of Appeal pursuant to Rule 207, SCACR; and
8. Appellant has failed to file a motion requesting permission to order the transcript outside of the filing deadlines set by Rule 207, SCACR.

Respondent now moves to dismiss the appeal because Appellant has not pursued the appeal in conformity with applicable court rules by failing to order the transcript within 10 days after serving the Notice of Appeal; and by failing to file a motion seeking permission to order the transcript outside of the filing deadlines.

WHEREFORE, the Respondent respectfully requests that the Notice of Appeal and/or Appeal be dismissed, and for such other and further relief as the court deems just and appropriate.

[signature block following page]

July 14, 2015



Morgan S. Templeton, Esq.
Peden Brown McLeod, Jr., Esq.
145 King Street, Suite 300
Post Office Box 1200
Charleston, South Carolina 29402
Telephone: 843.329.9500

-AND-

G. Wade Cooper, Esq.
Buyck, Sanders & Simmons, LLC
Post Office Box 2424
Mt. Pleasant, South Carolina 29465
Telephone: (843) 377-1400

**Attorneys for Respondent, Carolina Center for
Occupational Health**

Other Counsel of Record:

Jack Powell
1402 8-A Camp Road
Charleston, South Carolina 29412
Pro Se

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PROOF OF SERVICE

The undersigned hereby certifies that on this 14th day of July 2015, she mailed a copy of **Respondent Carolina Center for Occupational Health's Motion to Dismiss** by placing a copy in a postpaid envelope for collection and processing for mailing. On the same day correspondence is placed for collection and mailing, it is deposited with the United States Postal Service in the ordinary course of business and addressed to the following, which is the last known address, in Charleston, South Carolina:

ADDRESSEE(S)

Jack Powell
1402-A Camp Road
Charleston, SC 29412
Pro Se

G. Wade Cooper, Esq.
Buyck Sanders & Simmons, LLC
Post Office Box 2424
Mt. Pleasant, SC 29465
*Co-counsel for Carolina Center for
Occupational Health*


AMY R. EVERSOLE
Paralegal to P. Brown McLeod

**NOTICE OF SERVICE/HAND DELIVERED
"NOTICE" OF APPEAL TO THE SOUTH CAROLINA COURT OF APPEALS**

Pro se, Jack Powell is giving notice to the Carolina Center for Occupational Health LLC. that he is appealing C/A NO. 2013-CP-10-6567. Notice was submitted to the Charleston County Clerks Office and will also be submitted to the South Carolina Court of Appeals on or before December 31, 2014.

This a hand delivered Notice and is to be properly signed at delivery by the Carolina Center for Occupational Health located at;

4600 Goer Dr. Ste. 205
North Charleston, S.C. 29406

RECEIVED

JAN 02 2015

SC Court of Appeals

Delivered and Signed on 12-22-14, by;



**NOTICE OF SERVICE/HAND DELIVERED
 "NOTICE" OF APPEAL TO THE SOUTH CAROLINA COURT OF APPEALS**

Pro se, Jack Powell is giving notice to the Attorney's for the Carolina Center for Occupational Health LLC. that he is appealing C/A 2013-CP-10-6567. Notice was submitted to the Charleston County Clerks Office and will also be submitted to the South Carolina Court of Appeals on or before December 31, 2014.

This is a hand delivered Notice and is to be properly signed at delivery by Wall, Templeton & Haldrup located at;

Wall, Templeton & Haldrup
 145 King St. Ste. 300
 Charleston, S.C. 29402

RECEIVED
 JAN 02 2015
 SC Court of Appeals

Delivered & Signed on 12-30-14, by _____
 Wall, Templeton & Haldrup, Representative

Appellant called Attorney's office on 12-30-14 and left a message for Brown Mcloud about Service and an attempt was made at 3:50 p.m. and apparently the office was closed for the Holidays. Jack Powell mailed the Notice of Appeal to them by Certified Mail on 12-30-14.

U.S. Postal Service™		
CERTIFIED MAIL™ RECEIPT		
<i>(Domestic Mail Only, No Insurance Coverage Provided)</i>		
For delivery information visit our website at www.usps.com		
CHARLESTON SC 29402		
OFFICIAL USE		
Postage	\$ 00.49	0248
Certified Fee	\$3.30	08
Return Receipt Fee (Endorsement Required)	\$2.70	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage & Fees	\$ 06.49	12/30/2014

Jack Powell

**Respondent's
 Exhibit B**



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMNER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

January 26, 2015

Jack Powell
1402 Camp Road
Unit 8-A
Charleston SC 29412

Re: Jack Powell v. Carolina Center
Appellate Case No. 2015-000049

Dear Mr. Powell:

Our records reflect that the time for ordering the transcript has expired. Within ten days of the date of this letter, you must file a copy of the letter showing that you have ordered the transcript from the court reporter, along with a motion requesting permission to order the transcript outside of the filing deadlines set by Rule 207 of the SCACR. Your appeal will be dismissed if no motion is made within ten days of the date of this letter.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Peden Brown McLeod, Jr., Esquire
Gordon Wade Cooper, Esquire



Wall Templeton
ATTORNEYS

Peden Brown McLeod, Jr.
Brown.McLeod@WallTempleton.com
Telephone: 843.329.9500 Ext. 201
Facsimile: 843.329.9501

July 14, 2015

V. Claire Allen, Deputy Clerk
South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RECEIVED

JUL 20 2015

Re: *Jack Powell vs. Carolina Center for Occupational Health, et al*
Appellate Case No.: 2015-000049
Insured: Carolina Center for Occupational Health, LLC
Claim No.: 72-444-2014

SC Court of Appeals

Dear Ms. Allen:

Enclosed please find an original and seven copies of Respondent's Motion to Dismiss, along with a \$25 check to cover the filing fee. Please return a file-stamped copy of the Motion to this office in the enclosed, self-addressed, stamped envelope.

Should you have any questions, please feel free to contact me.

Sincerely,

WALL TEMPLETON & HALDRUP, P.A.

Peden Brown McLeod, Jr.

PBM,jr.:are
Enclosures

cc: Mr. Jack Powell (w/ enc.)
G. Wade Cooper, Esq. (w/ enc.)



Wall Templeton
ATTORNEYS

145 King Street, Suite 300
Charleston, South Carolina 20401



UNITED STATES POSTAGE
PITNEY BOWES
02 1P \$ 003.18⁰
0001665158 JUL 14 2015
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FIRST CLASS MAIL

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JUL 20 2015

SC Court of Appeals

V. Claire Allen, Deputy Clerk
South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211