

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
D. Garrison Hill, Circuit Court Judge

Appellate Case No.: 2015-000476

David Wilson, individually and derivatively on behalf of Carolina Custom Converting, LLC, Plaintiff,

v.

John Gandis, Andrea Comeau-Shirley, Zoi Films, LLC, and Carolina Custom Converting, LLC, Defendants,

John Gandis and Andrea Comeau-Shirley, Third-Party Plaintiffs,

v.

Carolina Custom Converting, LLC, Third Party Defendant and Counterclaim Plaintiff,

v.

Dave Wilson, Steve Norvell, Neologic Distribution, Inc. and Fresh Water Systems, Inc.,

Of Whom David Wilson, Neologic Distribution, Inc., and Fresh Water Systems, Inc., are the Respondents,

and

John Gandis, Andrea Comeau-Shirley, and Carolina Custom Converting, LLC, are the Appellants.

**RESPONDENTS' MOTION AND FOR EXTENSION OF TIME TO FILE
INITIAL BRIEF AND DESIGNATIONS OF MATTER**

Respondents David Wilson, Neologic Distribution, Inc., and Fresh Water Systems, Inc. are observant of the Initial Brief of the Appellant Carolina Custom

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Converting, LLC ("CCC") filed on December 9, 2015, along with the 78 page Initial Brief of Appellants John Gandis and Andrea Comeau-Shirley. These filings made the Respondents' Initial Briefs and Designations of Matter to be Included in the Record on Appeal due on January 8, 2016. On or about December 11, 2015, Respondent Dave Wilson filed a motion to extend deadline requesting that Respondent's Initial Brief be due on February 10, 2016. On December 17, 2015 Respondents Novell, NeoLogic and Fresh Water filed their own Motion for Extension of Time to File Initial Brief and Designation of matter to be included in the record on appeal. However, before ruling on the motions for extensions of time, the January 8, 2016, deadline was held in abeyance by the Court's December 17, 2015 order, which stated "the time for serving and filing the respondents' initial briefs and designations of matter is hereby held in abeyance."¹

The next order, issued on January 28, 2016, set a deadline for appellants Gandis and Shirley to re-file an Initial Brief that did not exceed the page limit. Appellant CCC's Initial Brief (filed on December 9, 2015) did not exceed the page limit, and therefore, Appellant CCC has not been ordered to file an amended initial brief. Respondents expected a ruling on their motion to extend time or some guidance on the briefing schedule in light the Court's January 28, 2016 order. However, no guidance was provided. Respondents were genuinely uncertain as to the date its Initial Briefs were due.

Respondents' counsel's office called requesting clarification but were simply advised to follow the orders. On February 12, 2016, Respondents were advised that a

¹ When the Respondents received the December 17, 2015 Order, Respondent Wilson's counsel contacted the clerk's office to confirm that this stay encompassed the deadlines for responding for all Appellant's briefs and was advised that it did. Counsel for Respondents believed (for some reason) that by holding all briefs in abeyance that there was an intent to keep all Initial Briefs and Appellants Reply Briefs on a consistent track.

letter clarifying the briefing schedule would be forthcoming. This letter from the Clerk of Court was dated February 17, 2016, and reiterated the deadlines in regards to appellants Gandis and Shirley's amended initial brief and the reply initial brief thereto, and indicated for the first time no action would be taken on the Respondents' motions for extensions of time. (A copy of the letter is attached as Exhibit A). There was no guidance as to a deadline for Respondents' initial briefs in response to CCC's brief. Respondents therefore replied with the letter attached as Exhibit B. Respondents remain uncertain as to the manner of calculation of the deadline to file their respective initial briefs, although Respondents are concerned that the deadline is upon us. Perhaps Respondents' counsel should have been able to determine for themselves the new deadline. However, there was genuine confusion and a belief that their briefs would be due February 29, 2016 (at the same time as the re-filed Initial Briefs of Appellants Gandis and Comeau-Shirley). Respondents are working feverishly to complete their Initial Briefs in response to the Appellants CCC's Initial Brief, but require another 10 days to complete their Initial Briefs. To the extent that Respondents' counsels' confusion and delay in awaiting guidance is our own fault, counsel pleads with the Court not to hold its Initial Briefs untimely and penalize their clients. Counsel simply did not understand there would be no action on the motions for extension of time or some guidance regarding the briefing deadlines.

Respondents have consulted with counsel for Appellant CCC, who has kindly consented to an extension of time to file their respective Initial Briefs.

Accordingly, to the extent that Respondents deadline to file Initial Brief in response to the Initial Brief of CCC is prior to February 29, 2016, counsel for Respondent

David Wilson and Respondents Neologic and Fresh Water respectfully requests an extension of time until February 29, 2016, in which to file and serve Respondents' Initial Briefs and Designations of Matter in response to Appellant CCC's Initial Brief.

Respectfully submitted,



W. ANDREW ARNOLD

SC Bar # 0065311

Law Office of W. Andrew Arnold, P.C.

712 East Washington Street

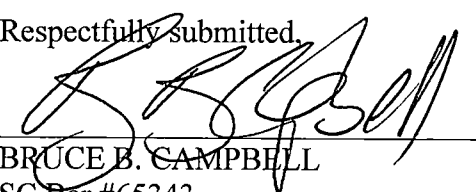
Greenville, SC 29601

(864) 242-4800

aarnold@aalawfirm.com

Attorney for Respondent David Wilson

Respectfully submitted,



BRUCE B. CAMPBELL

SC Bar #65343

Horton, Drawdy, Ward, Mullinax & Farry, P.A.

307 Pettigru Street

Greenville, SC 29601

(864) 233-4351

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Attorney For Respondents

**Neologic Distribution, Inc. and Fresh Water
Systems, Inc.**

Dated February 19, 2016

EXHIBIT A



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29211
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February 17, 2016

Mr. D. Randle Moody, II, Esquire
PO Box 10529
Greenville SC 29603

Mr. Joseph Owen Smith, Esquire
PO Box 10529
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Mr. Burl F. Williams, Esquire
PO Drawer 10648
Greenville SC 29603

Mr. W. Andrew Arnold, Esquire
712 E. Washington St.
Greenville SC 29601

Mr. Bruce Bellinger Campbell, Esquire
307 Pettigru Street
Greenville SC 29601

Re: David Wilson v. John Gandis
Appellate Case No. 2015-000476

Dear Counsel:

Pursuant to the enclosed order of the Court dated January 28, 2016, and Rule 208 (a)(2), SCACR, our records reflect the appellants' initial brief and designation of

matter are not due until February 29, 2016. Accordingly, the respondents' briefs and designation of matter are not due to be served and filed until thirty (30) days after service of the appellant's amended initial brief. We will not take any further action on the respondents' motion for an extension of time filed December 21, 2015.

Very truly yours,


CLERK

EXHIBIT B



February 18, 2016

VIA FACSIMILE ONLY

Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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SC Court of Appeals

RE: David Wilson, et al. v. John Gandis, et al.
Appellate Case Number: 2015-000476

Dear Ms. Kitchings:

I represent the respondent David Wilson and Bruce Campbell represents the other respondents.

We are in receipt of your letter dated February 17, 2016, and appreciate your attempt to clarify matters for respondents. However, we remain uncertain and confused about the due date of respondents' initial briefs and designations of matter as it relates to appellant Carolina Custom Converting's brief which was filed prior to the Order holding in abeyance the time for serving all respondents' briefs. Accordingly, it is our intention to file respondent's initial briefs in response to Carolina Custom Converting's initial brief on February 29, 2016. If this is an incorrect calculation, we would hope to be advised.

Sincerely,


W. Andrew Arnold

Sincerely,


Bruce Campbell

WAA/jdf

cc: D. Randle Moody, II, Esquire
Burl F. Williams, Esquire
Bruce Campbell, Esquire

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v.

John Gandis, Andrea Comeau-Shirley, Zoi Films, LLC, and Carolina Custom Converting, LLC, Defendants,

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v.

Carolina Custom Converting, LLC, Third Party Defendant and Counterclaim Plaintiff,

v.

Dave Wilson, Steve Norvell, Neologic Distribution, Inc. and Fresh Water Systems, Inc.,

Of Whom David Wilson, Neologic Distribution, Inc., and Fresh Water Systems, Inc., are the Respondents,

and

John Gandis, Andrea Comeau-Shirley, and Carolina Custom Converting, LLC, are the Appellants.

PROOF OF DELIVERY

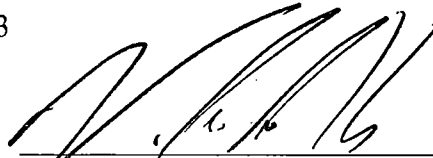
I certify that I have served the Respondents' Motion and for Extension of Time to File Initial Brief and Designation of Matter by depositing a copy of the same in the

United States Mail, postage prepaid, on February 19, 2016, addressed to the attorneys of record:

Bruce B. Campbell, Esquire
Horton Law Firm
307 Pettigru St.
Greenville, SC 29601

Burl F. Williams, Esquire
Nexsen Pruet, LLC
P.O. Drawer 10648
Greenville, SC 29603

D. Randle Moody, II
Roe Cassidy Coates & Price, PA
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February 19, 2016

VIA FACSIMILE AND U.S. MAIL

Clerk of Court
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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RE: David Wilson v. John Gandis
Appellate Case Number: 2015-000476

Dear Sir or Madam:

In reference to the above, enclosed please find Respondents' Motion and For Extension of Time to File Initial Brief and Designations of Matter, Certificate of Service, and one copy of each for filing along with a \$25 filing fee check. Please return the stamped copies to me in the enclosed stamped envelope.

Sincerely,

A handwritten signature in cursive script that reads "Jodie D. Fowler".

Jodie D. Fowler
Paralegal

cc: Bruce B. Campbell, Esquire (with enclosures)
D. Randle Moody, II, Esquire (with enclosures)
Burl F. Williams, Esquire (with enclosures)

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GREENVILLE SC 29601-3035

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