

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

Ellis B. Drew, Master in Equity

Case No. 2014-CP-37-00143
Appellate Case No.: 2015-001860

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APR 08 2016
SC Court of Appeals

Polly A. Thompson, Respondent,

v.

Cathy J. Swicegood,Appellant.

RESPONDENT'S MOTION TO STRIKE APPELLANT'S REPLY BRIEF AS UNTIMELY

Counsel for Respondent, Polly A. Thompson, hereby moves to strike Appellant's Reply Brief as untimely. Appellant failed to file and serve her Initial Reply Brief within the time prescribed by the South Carolina Appellate Court Rules and did not seek leave for an extension of time to file.

Rule 208 of the South Carolina Appellate Court Rules provides that Appellant's Reply Brief must be served within ten (10) days of service of Respondent's Initial Brief. Rule 208(a)(3), SCACR (2014). Appellant filed her Initial Brief and Motion to Stay the Proceedings on January 4, 2016. Respondent subsequently filed a motion for extension of time to file, which was granted. Respondent filed her Initial Brief on March 4, 2016. Appellant's reply was due ten (10) days later on March 14, 2016. Appellant did not serve her Initial Reply Brief until March 27, 2016, twenty-three (23) days after being served Respondent's brief.

Respondent contends that Appellant's filing of a Motion to Stay the Proceedings did not stay the time for filing of the briefs in this matter. Appellant's motion, unlike a Motion to Dismiss, did not automatically stay the time limits for perfecting the appeal until the motion

is decided. Rule 224, SCACR. Thus, Appellant's Initial Reply Brief is untimely, and Appellant has waived her opportunity to submit her reply to Respondent's Initial Brief.

For the foregoing reason, Respondent respectfully request this Court issue an order striking Appellant's Initial Reply Brief.

Respectfully submitted,

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April 6, 2016

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April 6, 2016

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

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Re: *Polly Thompson v. Cathy Swicegood*
Appellate Case No.: 2015-001860

Dear Ms. Kitchings:

With this letter, I am enclosing the original and six (6) copies of *Respondent's Motion to Strike Appellant's Initial Reply Brief*, and *Proof of Service* in this case. If you need anything further, please do not hesitate to contact me. I appreciate your assistance.

Sincerely yours,

Margaret A. Chamberlain

Margaret A. Chamberlain

cc: Other Counsel of Record:

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