

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

RECEIVED

APR 14 2016

Aisha Taylor, Commissioner

Susan S. Barden, Commissioner

Gene McCaskill, Commissioner

SC Court of Appeals

Appellate Case No. 2016-000178

Gerald Garner, Claimant,

Appellant,

v.

Ceres Marine Terminals, Inc. Employer,

and

Tokio Marine & Nichido Fire Ins. Co., Carrier,

Respondents.

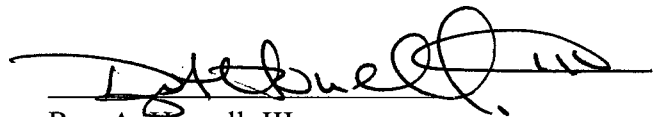
**RESPONSE TO APPELLANT'S
MOTION TO PAY FEE LATE**

The Respondents, Ceres Marine Terminals, Inc. and Tokio Marine & Nichido Fire Ins. Co, respectfully respond to the Appellant's Motion to Pay Fee Late dated April 2, 2016. The Appellant filed a Notice of Intent to Appeal with the S.C. Court of Appeals on January 26, 2016, but did not include the filing fee as required by Rule 203 of the S.C. Appellate Court Rules. The Court issued an Order on March 10, 2016 denying the motion to proceed *in forma pauperis* and requiring the Appellant to pay the filing fee

within 15 days of the date of the Order. The Appellant failed to pay the filing fee by March 25, 2016, as required. By April 2, 2016, the Appellant had still failed to pay the filing fee, but filed a Motion to Pay Fee Late. The Appellant's Motion provides no reason for his failure to pay the filing fee to date and further provides no valid basis for extending the deadline to pay the filing fee. The Court issued an Order on April 5, 2016 which dismisses the appeal due to the Appellant's failure to pay the Notice of Appeal filing fee as required by Rule 203 of the S.C. Appellate Court Rules and by the Court's Order dated March 10, 2016.

As stated in Rule 203(d)(3) of the S.C. Appellate Court Rules, "If the notice of appeal is not timely filed *or the filing fee is not paid in full, the appeal shall be dismissed, and shall not be reinstated except as provided by Rule 231.*" (emphasis added) The Respondents respectfully contend that the Appellant has failed to pay the filing fee as required by Rule 203(d)(3) of the S.C. Appellate Court Rules and the Court's March 10, 2016, the Appeal has been dismissed by Order dated April 5, 2016, and respectfully ask that the Appellant's Motion to Pay Fee Late should be denied.

Respectfully submitted,



Roy A. Howell, III
Trask & Howell, LLC
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SC Bar # 11888
ATTORNEYS FOR THE RESPONDENTS

April 11, 2016

THE STATE OF SOUTH CAROLINA

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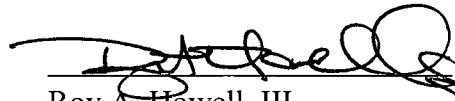
PROOF OF SERVICE

The undersigned hereby certifies that the above-named Appellant, Gerald Garner, was served with a copy of the attached Response to Appellant's Motion to Pay Fee Late this 11th day of April 2016, by depositing a copy of the same in the United States Mail, first class postage prepaid, addressed to the parties of record, as follows:

Gerald Garner
P.O. Box 186
Goose Creek, SC 29445

Respectfully submitted,

April 11, 2016

A handwritten signature in black ink, appearing to read "Roy A. Howell, III", written over a horizontal line.

Roy A. Howell, III

Trask & Howell, LLC

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April 11, 2016

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APR 14 2016

SC Court of Appeals

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

Re: Gerald Garner v. Ceres Marine Terminals, Inc.
W.C.C. File No.: 0902709
Appellate Case No. 2016-000178
Carrier File No.: 2009009706
Date of Accident: February 23, 2009

Dear Ms. Kitchings:

Enclosed herewith for filing, please find the original and six (6) copies of our Response to Appellant's Motion to Pay Late Fee and original Proof of Service of the same in the above-named matter. By a copy of this correspondence and document, I am forwarding same to the Appellant via regular mail.

Yours very truly,

Roy A. Howell, III

RAHIII/dll/lk

Enc.

cc: Kirby Ford, Ceres Marine Terminals, Inc. (via email only w/enc.)
Gerald Garner (w/enc.)

104/971-Court of Appeals Response



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The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
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