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IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

The Honorable Edward W. Miller, Circuit Court Judge

**RECEIVED**

APR 29 2016

**SC Court of Appeals**

Appellate Case No.: 2016-000584

CJR Resources, Inc. f/k/a Ron's Building Materials, Inc.....Respondent,

v.

Commercial & Industrial Floors, Inc. and Dabney Maides.....Appellants,

v.

Christopher M. Keel.....Respondent.

**MOTION TO DISMISS**

This matter involves an appeal from a decision of the Court of Common Pleas and this Motion to Dismiss is being filed pursuant to Rules 208 and 240, SCACR. The Court should dismiss this appeal because Appellant's Initial Brief was not filed and served within the time period required and there has been no leave for such late filing by the Court upon any good cause shown by Appellant.

**ARGUMENT**

In regard to the filing and service of initial briefs in an appeal before the Court, Rule 208 specifically provides that "within thirty (30) days after serving the notice of appeal, appellant shall serve one copy of his brief on all parties to the appeal, and file

with the clerk of the appellate court one copy of the brief with proof of service.” Rule 208(a)(1), SCACR. Rule 208 goes on to address the failure of an appellant to meet that time requirement, specifically providing that “(u)pon the failure of the appellant to file and serve his brief within the time prescribed, the clerk of the appellate court shall sign an order dismissing the appeal, and the appeal shall not be reinstated except as provided by Rule 260.” Rule 208(a)(4), SCACR. Rule 260 provides that once an appeal is dismissed, “(a) case shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties.” Rule 260(a)

Appellants’ Notice of Appeal in this matter was both filed and served on Respondents, via hand delivery, on March 17, 2016. Accordingly, and pursuant to Rule 208(a)(1), Appellants were thus required to both file and serve Respondents with their Initial Brief on or before April 18, 2016<sup>1</sup>. Regardless, Appellants did not file and serve Respondents with their Initial Brief until April 20, 2016. Accordingly, and based on the failure of Appellants to file and serve their Initial Brief within the time prescribed by the South Carolina Appellate Court Rules, Rule 208(a)(4) provides that the clerk of the appellate court “shall sign an order dismissing the appeal.”

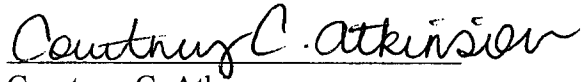
### CONCLUSION

For those reasons set forth above, Respondents respectfully request that the appeal in this matter be dismissed pursuant to Rule 208(a)(4), SCACR.

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<sup>1</sup> Thirty days from the date of filing and service of the Notice of Appeal would actually have been April 16, 2016, which was a Saturday.

Respectfully submitted,



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Metcalf & Atkinson, LLC  
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Attorney for Respondent Christopher M. Keel

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Attorney for Respondent CJR Resources, Inc.

Greenville, South Carolina  
April 27, 2016

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**PROOF OF SERVICE**

The undersigned hereby certifies that on the date indicated below she served counsel for the Appellants with a copy of the Motion to Dismiss by mailing copies of the same by United States Mail with first class postage prepaid to the following address.

William McKibbon, III  
601 E. McBee Avenue  
Greenville, SC 29601

April 27, 2016

*Courtney C. Atkinson*

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(864) 214-2319  
Attorney for Respondent Christopher Keel

# METCALFE & ATKINSON, LLC

ATTORNEYS AT LAW

April 27, 2016

The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

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SC Court of Appeals

**Re: CJR Resources, Inc. f/k/a Ron's Building Materials, Inc. v. Commercial & Industrial Floors, Inc. and Dabney Maides**  
**Appellate No.: 2016-000584**

Dear Ms. Kitchings:

Enclosed for filing please find the original and three (3) copies of Respondent's Motion to Dismiss in the above-referenced case as well as the proof of service along with a check in the amount of \$25.00 for the filing fee.

I would very much appreciate your filing same and returning copies to me in the enclosed self-addressed stamped envelope. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

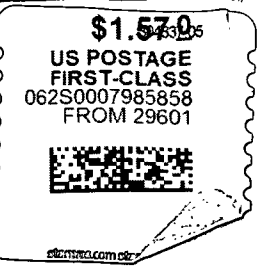


Courtney C. Atkinson  
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CCA/awr

Enclosure

cc: John Crawford, Esq.  
William McKibbon, III, Esq.



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