

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

RECEIVED

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

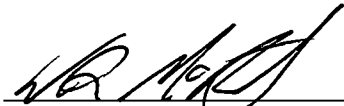
MAY 11 2016  
SC Court of Appeals

Edward W. Miller, Circuit Judge

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.

**RETURN TO RESPONDENTS' MOTION TO DISMISS**

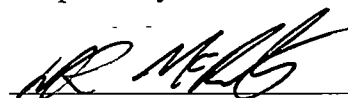
  
William R. McKibbin III  
S.C. Bar No. 68454  
601 E. McBee Ave, Ste. 204  
Greenville, SC 29601  
864.235.0071, 864.235.0072 (f)  
[will@legalcarolina.com](mailto:will@legalcarolina.com)  
Attorney for Appellants  
May 6, 2016

**NOW INTO COURT** come the Appellants who respectfully request that this Honorable Court deny Respondents' Motion to Dismiss. This motion is based upon the fact that according to the Clerk of Court's direct communication with Appellants' counsel prior to the filing due date, the Initial Brief and Designation of Matter were filed in a timely manner.

Attached as part of this motion is an affidavit of Appellants' counsel, as Exhibit A, wherein Appellants assert that their counsel specifically called the South Carolina Court of Appeals prior to the due date of the Initial Brief to confirm the due date and was clearly told by the Clerk or Deputy Clerk that the Initial Brief was due on or before April 20, 2016. Appellants did, in fact, very deliberately choose to file on April 20, 2016 in order to utilize all time available. The Initial Brief and Designation of Matter were filed by mailing on April 20 and on the same day were hand delivered to the attorneys of record. No objections were raised by counsel when placed in the hands of counsel on the day of service, and Respondents' Motion was then filed and served on April 27, a full seven days after Appellants had filed their Initial Brief.

Appellants therefore request that the motion be denied.

Respectfully submitted,



---

William R. McKibbon III (S.C. Bar No. 68454)  
601 E. McBee Ave, Ste. 204  
Greenville, SC 29601  
864.235.0071, 864.235.0072 (f)  
[will@legalcarolina.com](mailto:will@legalcarolina.com)  
Attorney for Appellants

State of South Carolina )  
 )  
County of Greenville )

In the South Carolina Court of Appeals  
  
Case No. 2016-000584

**AFFIDAVIT OF WILLIAM R. MCKIBBON III**

1. I am Will McKibbon, and I am attorney for the Appellants in the above-referenced appeal. I swear, under any and all penalties of law, that the averments herein are true and accurate.
2. I am a sole practitioner in Greenville and have been practicing since 2000. I have appeared before the SC Court of Appeals once previously in approximately 2001 or 2002.
3. Throughout this appeal, I have been in phone contact with the Clerk of Court's office for the SC Court of Appeals numerous times for the purposes of checking and double checking with procedural compliance and timeliness. These phone conversations began with initial Notice of Appeal, follow ups regarding the same and with regard to the briefing schedule, and one call prior to the due date of the Initial Brief that I specifically initiated for the purposes of requesting a confirmation of the due date for the Initial Brief and Designation of Matter. In all, I spoke to the Clerk's office 4 times, including the call the week prior to the due date of the Initial Brief.
4. Initially with the service of Notice of Appeal, the Court of Appeals returned by submission noting a deficiency because a portion of the Order appealed form was not included in the submission. I remedied that deficiency immediately and proceeded thereafter with the preparation of the Initial Brief. In order to maximize all time available for the initial briefing, and uncertain of the official effective date of Notice, I called the Clerk's office the week prior to the due date and was specifically told that April 20, 2016 was the due date for the Initial Brief. I also specifically recall asking the Deputy Clerk

and her confirming that post-marking the Brief by that date would constitute filing.

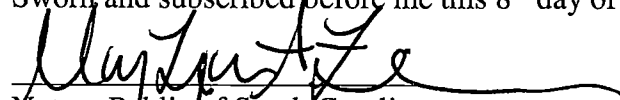
Therefore, I followed in due course and filed by that date that appeared on the calendar or briefing schedule that the Deputy Clerk checked and double-checked at my request.

FURTHER AFFIANT SAYETH NOT.



William R. McKibbon III

Sworn and subscribed before me this 8<sup>th</sup> day of May, 2016



Notary Public of South Carolina

My commission expires: 4/8/2025

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

RECEIVED

MAY 11 2016

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

SC Court of Appeals

Edward W. Miller, Circuit Judge

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.

PROOF OF SERVICE

I hereby certify and offer proof of service that the Respondents were served Appellants' **Return to Respondents' Motion to Dismiss** by hand delivery, pursuant to Rule 262, Rules of Appellate Practice, this 8<sup>th</sup> day of May, 2016 to the following attorneys of record:

Courtney C. Atkinson  
9 Toy Street  
Greenville, SC 29601  
864.214.2319, 864.214.3067 (f)  
[catkinson@malawfirm.com](mailto:catkinson@malawfirm.com)  
Attorney for Respondent Christopher Keel

John T. Crawford, Jr.  
704 E. McBee Ave.  
Greenville, SC 29601  
864.242.4899  
[crawford@conlaw.com](mailto:crawford@conlaw.com)  
Attorney for Respondent CJR Resources, Inc.



William R. McKibbon III (Bar No. 68454)  
601 E. McBee Ave, Ste. 204  
Greenville, SC 29601  
864.235.0071, 864.235.0072 (f)  
[will@legalcarolina.com](mailto:will@legalcarolina.com)  
Attorney for Appellants



WILLIAM R. MCKIBBON III

ATTORNEY AT LAW

May 8, 2016

RECEIVED

MAY 11 2016

SC Court of Appeals

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

Re: 2016-000584  
*CJR Resources, Inc. v. Commercial & Industrial Floors, Inc.*

Dear Ms. Kitchings:

Please find enclosed for filing Appellants' Return to Respondents' Motion to Dismiss.  
Thank you kindly for your assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Will McKibbon III', is written over a horizontal line.

William R. McKibbon III

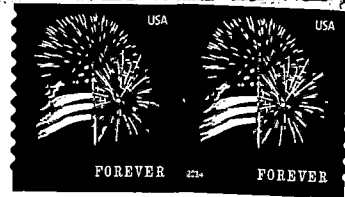
cc: Courtney Atkinson  
John Crawford  
(both via hand delivery)

M

WILLIAM R. MCKIBBON III

ATTORNEY AT LAW

601 E. McBEE AVE., STE. 204  
GREENVILLE, SC 29601



RECEIVED

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

MAY 11 2016

SC Court of Appeals

