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S.C. SUPREME COURT



97 Broad Street • Charleston, SC 29401 • Post Office Box 859 • Charleston, SC 29402
Phone: 843-727-1144 • Fax: 843-727-7696 • www.wmalawfirm.net

October 3, 2012

Direct Telephone: (843) 793-6041

The Honorable Daniel E. Shearouse
South Carolina Supreme Court
Post Office Box 11330
Columbia, South Carolina 29211

RE: Frewil, LLC v. Madison Price and Carter Smith
Case No.: 10-CP-10-9956
Our File No.: 731-1

Dear Mr. Shearouse:

Please find enclosed for filing the original and seven (7) copies of Respondent's Motion to Dismiss Appeal for Lack of Appellate Jurisdiction and/or for Appellants' Failure to Timely Appeal, in reference to the above matter. A business check in the amount of \$25.00 is enclosed to cover the cost of the motion filing fee. Please return one clocked copy via the self-addressed, stamped envelope enclosed. By copy of this letter, we are serving all counsel of record with a copy of the same.

Thank you for your assistance. Please do not hesitate to contact me if you have any questions regarding this filing.

Sincerely,

WILLS MASSALON & ALLEN LLC

I. Ryan Neville, Esquire
rneville@wmalawfirm.net

Enclosures

cc: Mr. Dave Abdo
Mr. Joseph F. Runey, Esquire

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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

W. Jeffery Young, Circuit Court Judge

Case No. 2010-CP-10-9956

FREWIL, LLC.....Respondent,

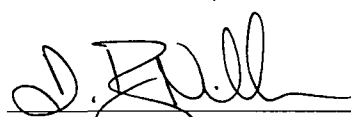
v.

MADISON PRICE AND CARTER SMITH.....Appellants.

RESPONDENT'S MOTION TO DISMISS APPEAL FOR LACK OF APPELLATE JURISDICTION AND/OR FOR APPELLANTS' FAILURE TO TIMELY APPEAL

NOW COMES counsel for Respondent, and moves this Honorable Court to dismiss this appeal because this Court lacks appellate jurisdiction over this matter and/or Appellants did not timely appeal the Honorable W. Jeffery Young's Order. Respondent's Counsel submits as justification for this request, Appellants' failure to base their appeal in any of the grounds found in SCACR 203(d)(1)(A)(i-vi) as well as Appellant's failure to file and serve their Notice of Appeal within thirty (30) days after receipt of the Order from which they appeal. *Compare Rosen, Rosen & Hagood v. Hiller*, 415 S.E.2d 117, 118 (S.C. Ct.App.1992) (holding the procedure that requires a party to give notice to any other party of entry of order does not require service of signed, dated, and filed copy of order) *with* Exhibit A (U.S. Mail serving notice of the filing of Judge Young's Order on Appellant's Counsel as well as Electronic Mail serving the same on August 20, 2012) *and* Exhibit B (Notice of Appeal untimely, not contesting receipt of Exhibit A, and failing to state grounds upon which to base their appeal to this Court).

October 3, 2012



John A. Massalon, Esquire
I. Ryan Neville, Esquire
Wills & Massalon, LLC
P.O. Box 859
Charleston, South Carolina 29402
(843) 727-1144
Attorneys for Respondents

Joseph F. Runey
14 Exchange Street
Charleston, South Carolina 29401
843-722-2904
Attorney for Appellants

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

W. Jeffery Young, Circuit Court Judge

Case No. 2010-CP-10-9956

FREWIL, LLC.....Respondent,

v.

MADISON PRICE AND CARTER SMITH.....Appellants.

PROOF OF SERVICE

I certify that I served Respondent's Motion to Dismiss Appeal for Lack of Appellate Jurisdiction and/or for Appellants' Failure to Timely Appeal on Appellants Madison Price and Carter Smith by depositing a copy of it in the United States Mail, postage prepaid, on October 3, 2012, addressed to its attorney of record, Joseph F. Runey, Esquire, 14 Exchange Street, Charleston, SC 29401.

October 3, 2012



John A. Massalon, Esquire
I. Ryan Neville, Esquire
Wills & Massalon, LLC
P.O. Box 859
Charleston, South Carolina 29402
843-727-1144
Attorneys for Respondents

WMA

WILLS MASSALON & ALLEN LLC

97 Broad Street • Charleston, SC 29401 • Post Office Box 859 • Charleston, SC 29402
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August 20, 2012

The Honorable Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401

RE: Frewil, LLC v. Madison Price and Carter Smith
Case No.: 10-CP-10-9956
Our File No.: 731-1

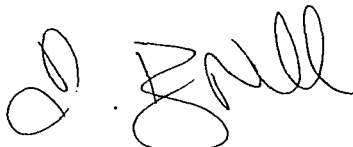
Dear Julie:

With regard to the above-referenced matter, enclosed please find the original and one copy of the Order Granting Plaintiff's Motion for Summary Judgment. Please file the original and return the file stamped copy to me via the enclosed self-addressed stamped envelope. By copy of this letter to Joseph Runey, Esquire, attorney for the Defendant, I am serving him with a copy of the same. If you have any questions, please do not hesitate to call.

With kind regards, I am

Respectfully,

WILLS MASSALON & ALLEN LLC



I. Ryan Neville
rneville@wmalawfirm.net

IRN:ba
Enclosure
cc: Joseph F. Runey, Esquire

EXHIBIT 'A'

From: [Ryan Neville](#)
To: "Joseph Runey"
Cc: [John A. Massalon](#)
Subject: Frewil v. Smith & Price (Order Granting Plaintiff's Motion for Summary Judgment)
Date: Monday, August 20, 2012 1:51:00 PM
Attachments: [Order Granting Plaintiff's Motion for Summary Judgment \(Signed\).pdf](#)

Joe:

Please see the attached Order Granting Plaintiff's Motion for Summary Judgment. I will be filing a Motion to determine Plaintiff's damages later this week. Please contact me if your client wishes to pay Frewil before it incurs any further attorneys' fees, costs, and/or interest.

Thank you,

Ryan

I. Ryan Neville, Esquire
Wills Massalon & Allen LLC
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NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

W. JEFFREY YOUNG, CIRCUIT COURT JUDGE

Case Number 2010-CP-10-9956

FREWIL, LLC.....Respondent,

VS.

MADISON PRICE AND CARTER SMITH.....Appellants

NOTICE OF APPEAL

Madison Price and Carter Smith Appeal the Order OF Summary Judgment of the Honorable W. Jeffrey Young dated August 15, 2012. This Judgment was filed of record on August 25, 2012 and was mailed to Appellants on August 28, 2012. The Appellants received the filed copy of this Order on August 31, 2012.

Joseph F. Runey

JOSEPH F. RUNEY
14 Exchange Street
Charleston, S.C. 29401
(843)722-2904 Phone
(843)722-2905 Fax

Other Counsel of Record:
I. Ryan Neville
Wills Massalon and Allen, LLC
97 Broad Street
Charleston, S.C. 29401
(843)727-1144

FILED
2012 SEP 27 PM 12:07
JULIE ALLENSTRONG
CLERK OF COURT
BY _____

EXHIBIT 'B'