

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

RECEIVED

The Honorable Edward W. Miller, Circuit Court Judge MAY 18 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.

RESPONDENTS' REPLY TO APPELLANTS' RETURN TO RESPONDENTS'
MOTION TO DISMISS

For all those reasons set forth in Respondents' Motion to Dismiss, the Court should dismiss this appeal because Appellant's Initial Brief was not filed and served within the time period required, and the arguments set forth in Appellants' Return to Respondents' Motion to Dismiss fail to provide any sufficient justification for Appellants' failure to meet their deadlines in this matter.

In their Return, Appellants first argue that the late filing of their Initial Brief should be excused because of communications that counsel for Appellants allegedly had with the Clerk's office regarding the deadline for filing of Appellants' Initial Brief. However, any such argument must fail as the South Carolina Appellate Court Rules

provided clear notice of the deadline for filing of Appellants' Initial Brief and Appellants' failed to meet that deadline. Rule 208 very clearly states 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." Rule 208(a)(1), SCACR. Since, Appellants' Notice of Appeal was both filed and served via hand delivery on March 17, 2016, the deadline for Appellants to file and serve their Initial Brief was clearly April 18, 2016¹ and the Clerk's office provided no direction to all parties otherwise. The filing of Appellants' Initial Brief on April 20, 2016 was, therefore, untimely.

Appellants also argue that Respondents' Motion to Dismiss should be denied because counsel for Respondents raised no objections at the exact moment that Appellants' Initial Brief was "placed in the hands of counsel on the day of service." However, such argument is entirely irrelevant and insufficient to overcome Appellants' failure to timely file their Initial Brief. Regardless, and to the extent that the alleged failure to provide an immediate verbal objection to Appellants' counsel on the date of service is even relevant, it should be noted that the Initial Brief was served in a manila envelope and counsel for Respondents had neither time nor opportunity to open the envelope, review the contents thereof and provide an objection thereto in the scant time between Appellants' counsel placing the envelope "in the hands of counsel" and his walking out of the office.

¹ 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.

CONCLUSION

For all those reasons previously set forth in Respondents' Motion to Dismiss, Respondents respectfully request that the appeal in this matter be dismissed pursuant to Rule 208(a)(4), SCACR

Respectfully submitted,



Courtney C. Atkinson
Metcalf & Atkinson, LLC
9 Toy Street
Greenville, SC 29601
Attorney for Respondent Christopher M. Keel

John T. Crawford, Jr.
Kenison, Dudley & Crawford, LLC
704 E. McBee Street, Suite 600
Greenville, SC 29601
Attorney for Respondent CJR Resources, Inc.

Greenville, South Carolina
May 16, 2016

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

RECEIVED

MAY 18 2016

The Honorable Edward W. Miller, Circuit Court Judge **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.

PROOF OF SERVICE

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

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

May 16, 2016

Courtney C. Atkinson

Courtney C. Atkinson, SC Bar 71992
Metcalf & Atkinson, LLC
9 Toy Street
Greenville, SC 29601
(864) 214-2319

Attorney for Respondent Christopher Keel

METCALFE & ATKINSON, LLC

ATTORNEYS AT LAW

May 16, 2016

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

RECEIVED

MAY 18 2016

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 six (6) copies of Respondent's Reply to the Motion to Dismiss in the above-referenced case.

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,

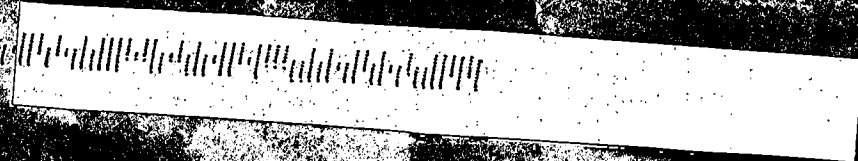
Courtney C. Atkinson

Courtney C. Atkinson
catkinson@malawfirm.com


CCA/awr

Enclosure

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



B04840.12
\$1.99 0
US POSTAGE
FIRST-CLASS
062S0007985858
FROM 29601



www.cometpost.com

METCALFE & ATKINSON, LLC
ATTORNEYS AT LAW

9 TOY STREET • PO BOX 1826 (29602)
GREENVILLE SC 29601

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

RECEIVED
MAY 18 2016
SC Court of Appeals