

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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**SC Court of Appeals**

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Alison Renee Lee, Chief Judge

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Case No.: 2016-000491

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Crystal Faye Clark, ..... Appellant,

v.

Housing Authority of The City of Columbia.....Respondent.

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**REPLY TO APPELLANT'S RETURN TO RESPONDENT'S SECOND AMENDED  
MOTION TO DISMISS**

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Adam J. Mandell

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Attorneys for Respondent

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## ARGUMENT

The South Carolina Supreme Court has held that “the South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State.” Henning v. Kaye, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992). In Cox v. Am. Oil Co., the South Carolina Supreme Court recognized the authority of appellate courts to dismiss appeals due to an Appellant’s noncompliance with the South Carolina Appellate Court Rules where the Respondent is not responsible for such noncompliance. 183 S.C. 519, 530, 191 S.E. 704, 708 (1937).

Rule 260(a) of the South Carolina Appellate Court Rules authorizes the clerk to dismiss an appeal “[w]henever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules.” SCACR 260. An appellant is required to “serve a copy of the Record on Appeal on each party who has served a brief” within thirty (30) days of service of her last brief, with proof of service being filed immediately with the clerk. SCACR 210(a).

In the present case, Appellant served her last brief upon Respondent on September 26, 2016, making service of the Record on Appeal due on October 26, 2016. At no such time prior to October 26, 2016, did Appellant request an extension of the thirty-day deadline set forth under Rule 210(a) nor did this Court grant such an extension. On November 9, 2016, two (2) weeks following the expiration of the deadline imposed by Rule 210(a), Appellant served the Record on Appeal upon Respondent. Because the Appellant has failed to comply with Rule 210, this Court should dismiss this appeal under Rule 260(a), SCACR.

Appellant argues that Respondent is not entitled to dismissal of this appeal because Respondent has failed to timely file documents as required by the Rules. On August 11, 2016, Respondent requested a thirty (30) day extension of time to reply to Appellant’s Initial Brief


pursuant to Rule 263(b), SCACR. This Court granted Respondent's request on August 12, 2016, and Respondent has not made any additional requests for extensions during the pendency of this appeal. As to Appellant's argument that Respondent has not suffered any prejudice by Appellant's failure to comply with Rule 260(a), Respondent asserts that the South Carolina Appellate Court Rules do not require a showing of prejudice by the moving party to warrant dismissal for noncompliance.

**CONCLUSION**

For the aforementioned reasons, this appeal should be dismissed with prejudice.

Respectfully Submitted,

BOYKIN & DAVIS, LLC

By: 

Kenneth A. Davis, Esq.  
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Attorneys for Housing Authority of the City of  
Columbia

December 6, 2016  
Columbia, South Carolina

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM THE FIFTH JUDICIAL CIRCUIT  
Honorable Alison Renee Lee, Presiding

Case No. 2014-CP-40-07011

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**SC Court of Appeals**

Crystal Faye Clark.....Appellant,

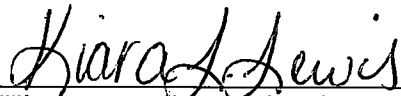
V.

Housing Authority of the City of Columbia.....Respondent

**PROOF OF SERVICE**

I certify that I have served the **REPLY TO APPELLANT'S RETURN TO RESPONDENT'S SECOND AMENDED MOTION TO DISMISS** in the above-referenced matter on all opposing counsel of record, by mailing a copy of same, postage prepaid and return address clearly indicated, to the following on this 6th day of December:

Johnny Elliot Watson, Sr., Esq.  
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\_\_\_\_\_  
Kiara L. Lewis, Paralegal

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December 6, 2016

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SC Court of Appeals

**VIA HAND-DELIVERY**

The Honorable Jenny Kitchings  
Clerk of Court  
1220 Senate Street  
Columbia, South Carolina 29211

Re: Crystal Faye Clark vs. Housing Authority of The City of Columbia  
C.A. No.: 2014-CP-40-07011

Dear Ms. Kitchings:

Please find enclosed the original and seven (7) copies of the Reply to Appellant's Return to Respondent's Second Amended Motion to Dismiss in the above-referenced matter. Please return a time-stamped copy to our courier.

Thank you for your assistance in this matter.

Sincerely,

  
Kenneth A. Davis

/kll

Enclosures

cc: Johnny E. Watson, Esq. (w/ encls.)  
Shawn D. Eubanks, Esq. (w/o encls.)  
Adam J. Mandell, Esq. (w/o encls.)