

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
G. Thomas Cooper, Jr., Circuit Court Judge

Case No. 2016-CP-40-3102

RECEIVED

JAN 23 2017

SC Court of Appeals

Richland County, South Carolina,..... Appellant-Respondent,

Central Midlands Regional Transit Authority, Intervenor-Respondent,

v.

The South Carolina Department of Revenue and
Rick Reames, III, in his official
capacity as its Director Respondents-Appellants,

v.

Richland PDT, a joint venture consisting of
M.B. Kahn Construction Co., Inc., ICA Engineering, Inc.,
and Brownstone Construction Group, LLC,
as a unit and Individually, Third-Party Defendants.

**RETURN IN OPPOSITION TO
RESPONDENTS-APPELLANTS' MOTION FOR EXTENSION**

The Respondents-Appellants South Carolina Department of Revenue and Rick Reames, III (hereafter collectively referred to as "SCDOR") have filed an additional motion for a thirty-day extension to file their Initial Appellant's Brief. The Appellant-Respondent Richland County respectfully opposes that motion on the following grounds:

1. SCDOR served its Notice of Cross-Appeal on September 14, 2016, thereby making its Initial Appellant's Brief originally due by October 14, 2016.

2. SCDOR failed to serve its Initial Appellant's Brief by October 14, 2016. In addition, no extension request was filed by that date.

3. Thereafter, approximately one month later on November 15, 2016, the Clerk of the Court of Appeals sent SCDOR's counsel a letter requiring the filing of the Initial Appellant's Brief within ten days.

4. The Court of Appeals then granted an extension of thirty days to SCDOR until December 21, 2016, to file the Initial Appellant's Brief. That motion was granted without waiting for any response from Richland County.

5. On December 21, 2016, the Court of Appeals received a Notice of Appearance for John Nichols to represent SCDOR and Reames as "additional counsel of record." SCDOR also filed another Motion for Extension asking for an additional thirty-days to file the Initial Appellant's Brief. Again, without waiting for any response from Richland County, that motion was granted on December 22,

2016. The deadline was extended to January 20, 2017. The Court's Order stated that "No further extensions will be granted absent extraordinary circumstances."

6. SCDOR and Reames did not file their Initial Appellant's Brief by January 20, 2017. Instead, they have filed yet another Motion for Extension seeking another thirty days to file the Initial Appellant's Brief.

7. Richland County has filed a Motion for Certification to the South Carolina Supreme Court and Motion to Expedite Appeal which explains the reasons that the County needs for this appeal to be expedited. The bases for those motions are incorporated herein. The County has been patient but needs for this appeal to move forward in an expeditious manner. As such, the County cannot agree to any further delays or extensions.

8. SCDOR and Reames have received over three months of extensions to date to file its Initial Appellant's Brief. In addition, Richland County filed its Initial Appellant's Brief on its appeal on October 14, 2016, and SCDOR and Reames have not as yet filed their Initial Respondent's Brief.

9. In sum, SCDOR and Reames have filed no briefs to date as to the appeal or cross-appeal.

10. Counsel for Richland County is advised in the latest Motion for Extension that Mr. Nichols has family medical issues with which he has been dealing. While the undersigned counsel is certainly sympathetic to Mr. Nichols' situation, the record shows that he did not get involved in the case until one month

ago and there are six other counsel of record for SCDOR and Reames who could have filed the Initial Appellant's Brief by the current deadline. Further, the Court stated that "No further extensions will be granted absent extraordinary circumstances," and there was no attempt to consult with any of the County's attorneys prior to the filing of this latest motion. The County therefore asks the Court to deny the latest Motion for Extension and expedite the remainder of the appeal schedule.

Respectfully submitted,



ANDREW F. LINDEMANN
DAVIDSON & LINDEMANN, P.A.
1611 Devonshire Drive
Post Office Box 8568
Columbia, South Carolina 29202
(803) 806-8222

BENJAMIN E. NICHOLSON, V
M. ELIZABETH CRUM
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

RAY N. STEVENS
RAY E. JONES
PARKER POE ADAMS &
BERNSTEIN, LLP
1221 Main Street, Suite 1100
Post Office Box 1509
Columbia, South Carolina 29202
(803) 255-8000

LARRY SMITH
Richland County Attorney
2020 Hampton Street
Post Office Box 192
Columbia, South Carolina 29202
(803) 576-2075

*Counsel for Appellant-Respondent
Richland County*

Columbia, South Carolina

January 23, 2017

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
G. Thomas Cooper, Jr., Circuit Court Judge

Case No. 2016-CP-40-3102

RECEIVED

JAN 23 2017

SC Court of Appeals

Richland County, South Carolina,..... Appellant-Respondent,

Central Midlands Regional Transit Authority, Intervenor-Respondent,

v.

The South Carolina Department of Revenue and
Rick Reames, III, in his official
capacity as its Director Respondents-Appellants,

v.

Richland PDT, a joint venture consisting of
M.B. Kahn Construction Co., Inc., ICA Engineering, Inc.,
and Brownstone Construction Group, LLC,
as a unit and Individually, Third-Party Defendants.

CERTIFICATE OF SERVICE

The undersigned employee of Davidson & Lindemann, P.A., counsel for the Appellant-Respondent Richland County, does hereby certify that service of the **Return In Opposition to Respondents-Appellants' Motion for Extension** in the above-captioned matter was made upon the Honorable Daniel E. Shearouse via hand delivery and upon all counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said

the 23rd day of January 2017:

Hand Delivered

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201



Gary Trammell

Via U.S. Mail

Larry Smith, Esquire
Richland County Attorney
Post Office Box 192
Columbia, South Carolina 29202

Benjamin E. Nicholson, V, Esquire
M. Elizabeth Crum, Esquire
McNair Law Firm, P.A.
Post Office Box 11390
Columbia, South Carolina 29211

Ray N. Stevens, Esquire
Ray E. Jones, Esquire
Court E. Walsh, Esquire
Parker Poe Adams & Bernstein, LLP
Post Office Box 1509
Columbia, South Carolina 29202

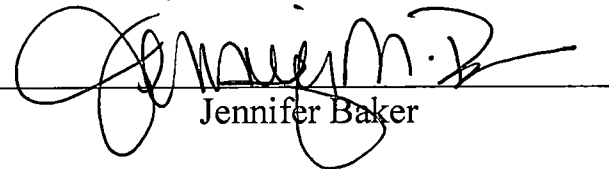
Milton G. Kimpson, Esquire
Dana R. Krajack, Esquire
Nicole M. Wooten, Esquire
Lauren Acquaviva, Esquire
South Carolina Department of Revenue
Post Office Box 12265
Columbia, South Carolina 29211

John S. Nichols, Esquire
Bluestein Nichols Thompson & Delgado, LLC
Post Office Box 7965
Columbia, South Carolina 29202

James E. Smith, Jr., Esquire
Dylan W. Goff, Esquire
James E. Smith, Jr., P.A.
1422 Laurel Street
Columbia, South Carolina 29201

Elizabeth Van Doren Gray, Esquire
Robert E. Tyson, Jr., Esquire
Alexis K. Lindsay, Esquire
Sowell Gray Stepp & Laffitte, LLC
Post Office Box 11449
Columbia, South Carolina 29211

Robert E. Lyon, Jr., Esquire
John K. DeLoache, Esquire
South Carolina Association of Counties
Post Office Box 8207
Columbia, South Carolina 29202-8207


Jennifer Baker

DAVIDSON & LINDEMANN, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

William H. Davidson, II
Andrew F. Lindemann*
James M. Davis, Jr.†
Robert D. Garfield
Michael B. Wren

1611 Devonshire Drive, Second Floor
Post Office Box 8568
Columbia, South Carolina 29202-8568
Telephone: (803) 806-8222
Facsimile: (803) 806-8855
www.dml-law.com

January 23, 2017

Daniel C. Plyler
Joel S. Hughes
David A. DeMasters
Steven R. Spreuwers
Brandon M. Briggs
Jasmine D. Wyman

*Also Admitted In North Carolina
†Certified Mediator

Of Counsel
Kenneth P. Woodington

Writer's Email: alindemann@dml-law.com

Hand Delivered

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

RE: Richland County, South Carolina v. The South Carolina Department of Revenue and Rick Reames, III, in his official capacity as its Director
Appellate Case Number: 2016-001839
Civil Action Number: 2016-CP-40-3102
Our File Number: 314.10001

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven copies of the **Return in Opposition to Respondents-Appellants' Motion for Extension** in the above referenced matter. Please file the original and return a clocked-in copy to me by way of my courier.

By copy of this letter, I am serving copies on the Honorable Daniel E. Shearouse via hand delivery and upon all counsel of record via U.S. Mail. I am providing a copy to the Supreme Court because the Appellant-Respondent Richland County filed last week a Motion for Certification and Motion to Expedite the Appeal.

Thank you for your assistance in this matter.

Sincerely,

DAVIDSON & LINDEMANN, P.A.



Andrew F. Lindemann

AFL/jmb
Enclosures

RECEIVED

JAN 23 2017

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
January 23, 2017
Page Two

cc: The Honorable Daniel E. Shearouse (*w/ Enclosure*)
Larry Smith, Esquire (*w/ Enclosure*)
Benjamin E. Nicholson, V, Esquire (*w/ Enclosure*)
M. Elizabeth Crum, Esquire (*w/ Enclosure*)
Ray N. Stevens, Esquire (*w/ Enclosure*)
Ray E. Jones, Esquire (*w/ Enclosure*)
Court E. Walsh, Esquire (*w/ Enclosure*)
Milton G. Kimpson, Esquire (*w/ Enclosure*)
Dana R. Krajack, Esquire (*w/ Enclosure*)
Nicole M. Wooten, Esquire (*w/ Enclosure*)
Lauren Acquaviva, Esquire (*w/ Enclosure*)
John S. Nichols, Esquire (*w/ Enclosure*)
James E. Smith, Jr., Esquire (*w/ Enclosure*)
Dylan W. Goff, Esquire (*w/ Enclosure*)
Elizabeth Van Doren Gray, Esquire (*w/ Enclosure*)
Robert E. Tyson, Jr., Esquire (*w/ Enclosure*)
Alexis K. Lindsay, Esquire (*w/ Enclosure*)
Robert E. Lyon, Jr., Esquire (*w/ Enclosure*)
John K. DeLoache, Esquire (*w/ Enclosure*)