

IN THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM HORRY COUNTY  
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

**RECEIVED**

MAR 30 2017

SC Court of Appeals

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Case No. 2015-CP-26-8179  
Appellate Case No. 2016-002175

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Robert DeCiero, a resident of Long Bay Estates Subdivision,  
Myrtle Beach, South Carolina .....Appellant,

v.

Horry County, State of South Carolina.....Respondent.

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APPELLANT'S REPLY TO  
RESPONDENT'S MOTION TO DISMISS

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Respondent has filed with the Appellate Court a Motion to Dismiss this appeal based upon their contention that Appellant failed to file a Notice of Appeal of the circuit court's Order of Dismissal dated June 22, 2016. This is inaccurate.

On or about October 21, 2016 Appellant served his Notice of Appeal upon receiving the Order Denying Motion to Reconsider the Order Granting Defendant's Motion to Dismiss on October 14, 2016.

According to SCACR Rule 203(b)(1), a Notice of Appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment; however, if a motion to alter or amend has been filed the time to appeal shall be stayed until receipt of written notice of entry of the order granting or denying such motion.

Upon receiving the Order of Dismissal dated June 22, 2016, Appellant timely filed a Motion to Reconsider thereby staying his time to appeal. On October 14, 2016, Appellant received the Order Denying Motion to Reconsider and, at that time, moved forward with filing the Notice of Appeal.

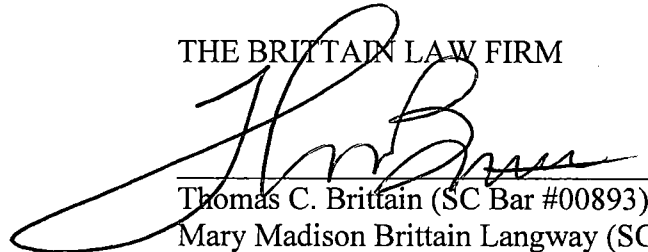
Therefore, it is proper when filing the Notice of Appeal to reference the Order Denying Motion to Reconsider because it is the date of receipt of that Order, not the Order of Dismissal, that determines the timeframe in which Appellant's Notice of Appeal must be filed and served. Appellant also references the Order of Dismissal in his Notice of Appeal but only included the date he received the Order Denying Motion to Reconsider since that was when his 30 days to file the Notice of Appeal began to run.

Appellant believes it is abundantly clear he was appealing the Order of Dismissal as well as the Order Denying Motion to Reconsider as evidenced by his Notice of Appeal, Initial Brief and Designation of Matter, all of which reference the June 22, 2016 Order of Dismissal.

However, in an abundance of caution, at this time Appellant is filing with the Appellate Court an Amended Notice of Appeal in an effort to make it even clearer that he has appealed both Orders.

WHEREFORE, Appellant requests that this Honorable Court deny the Defendant's Motion to Dismiss and accept, to the extent it is necessary and proper, Appellant's Amended Notice of Intent.

THE BRITAIN LAW FIRM



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Mary Madison Brittain Langway (SC Bar #73722)

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Attorneys for the Appellant

March 29, 2017  
Myrtle Beach, SC

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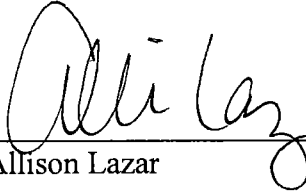
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PROOF OF SERVICE

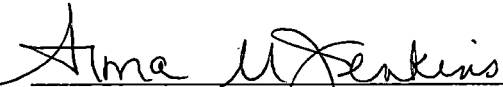
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I, Allison Lazar, do hereby certify that I am an employee of THE BRITTAIN LAW FIRM, P.A., attorneys for the Appellant in the above-entitled action, and that I have this 29<sup>th</sup> day of March, 2017, caused to be served upon the following parties the **Amended Notice of Appeal and Appellant's Reply to Respondent's Motion to Dismiss** by depositing a copy of same in the United States Mail, with sufficient first class postage affixed thereto, addressed as follows:

Elise F. Crosby, Esquire  
Crosby Law Firm, LLC  
405 Dozier Street  
Georgetown, SC 29440

  
Allison Lazar

**SWORN AND SUBSCRIBED** before me  
this 29<sup>th</sup> day of March, 2017.

  
**NOTARY PUBLIC FOR SOUTH CAROLINA**  
My Commission Expires: 5/2/2021

THE BRITTAI N LAW FIRM, P.A.

ATTORNEYS AT LAW  
4614 OLEANDER DRIVE  
MYRTLE BEACH, SOUTH CAROLINA 29577

THOMAS C. BRITTAI N  
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A. PRESTON BRITTAI N  
T. CASE BRITTAI N, JR.

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March 29, 2017

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

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SC Court of Appeals

Re: Robert DeCiero, a resident of Long Bay Estates Subdivision, Myrtle Beach, South Carolina v. Horry County, State of South Carolina  
Appellate Case No. 2016-002175

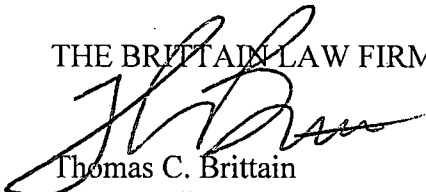
Dear Ms. Kitchings:

Enclosed please find the original and one (1) copy of Appellant's Amended Notice of Appeal along with the original and seven (7) copies of Appellant's Reply to Respondent's Motion to Dismiss and Proof of Service in the above-referenced matter.

Please return a clocked-in copy of each document to our office in the enclosed envelope. Thank you.

With warm regards, I am  
Yours truly,

THE BRITTAI N LAW FIRM, P.A.

  
Thomas C. Brittain  
Mary Madison Brittain Langway  
TCB/MMBL/all

cc: Elise F. Crosby, Esq.

\$2.87

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THE BRITAIN LAW FIRM, P.A.  
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4614 OLEANDER DRIVE  
MYRTLE BEACH, SOUTH CAROLINA 29577

TO:

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