

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
L. Casey Manning, Circuit Court Judge

Case No. 2016-CP-40-05336
Appellate Case No. 2017-001130

RECEIVED
OCT 30 2017
SC Court of Appeals

Tom Efland,Appellant,

v.

Randy L. Mills and Richland County, Respondents.

RESPONSE TO

Motion and Amended Motion for To Accept Late Filing of Initial Brief and Designation of Matter to be Included in the Record on Appeal

Respondent Randy L. Mills (hereafter "Mills") responds to Appellant's motion to allow late filing of Appellant's Initial Brief and Designations filed October 2, 2017, and the amended motion dated October 16, 2017 referenced above, and the attachments thereto. In support of this Response, Mills would show:

1. Mills filed his Second Motion to Dismiss Appeal on September 29, 2017, for additional failures by Appellant to comply with the filing deadlines for this appeal.
2. By pleading dated October 2, 2017, Appellant moved for an order permitting him to file Appellant's initial brief and designations out of time, and indicated he needed an additional ten (10) days to do so.
3. On the same date, Appellant filed a Response to Mills' second motion to dismiss.

4. Mills replied to Appellant's response by filing received by this Court on October 12, 2017.
5. Fourteen (14) days after advising this Court that Appellant needed ten (10) days to do Appellant's initial brief and designations, by filing on October 16, 2017, Appellant filed an "amended" motion to file out of time and included an initial brief and designations as an attachment to its amended motion.
6. The filing of the initial brief and designations, purportedly as exhibits to the amended motion, was not permitted, because this Court had not yet acted on Appellant's motion to file the initial brief out of time or Mills' second motion to dismiss.
7. On information and belief, Appellant is attempting to suggest a "no harm, no foul" to Mills' second motion to dismiss by filing an initial brief and designations well out of time, without permission of this Court, in yet another violation of the court rules.
8. This Court's C-track docket reflects that the Initial Brief and Designations of Appellant have been accepted for filing, since they are listed as separate entries on the docket, and not as exhibits to the amended motion.
9. Mills has filed, for a second time, a motion dismiss this appeal based on multiple violations of the time limits prescribed by the rules of this Court. In response, Appellant has violated the rules yet again, by filing an Initial Brief and Designations that this Court has not agreed to receive (but has apparently accepted).
10. If this Court permits the filing by Appellant of the Initial Brief and Designations that were filed more than two (2) weeks after they were due, without requesting an extension of time, after a motion to dismiss has been filed, and permitting the lame excuses proffered

by Appellant for its most recent rule violation, the rules mean nothing. Compliance with the rules will mean nothing. Violations of the rules are harmless. Permitting the filing of Appellant's initial brief and designations and not dismissing this appeal would encourage exactly what Appellant has done here; ignore the deadlines, not respond to filings, and getting away with it time after time.

11. It is respectfully submitted that this Court should not encourage the sloppy practice of law, especially when it is repeated over and over and should, finally, dismiss this appeal as requested in Mills' second motion to dismiss.

Respectfully submitted,



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ATTORNEYS FOR RESPONDENT MILLS

October 27, 2017

STATE OF SOUTH CAROLINA
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CERTIFICATE OF SERVICE

I, Beth Cogan, an employee with Ballard & Watson, Attorneys at Law, do hereby certify that on October 27, 2017, I served a copy of the **Response to Motion and Amended Motion to Accept Late Filing of Initial Brief of Appellant and Designation of Matter**, in the above-captioned case on the following individuals by U.S. Mail, with sufficient first-class postage affixed, and addressed as follows:

**S. Jahue Moore, Sr., Esquire
John Bradley, Jr., Esquire
Moore Taylor
Post Office Box 5709
West Columbia, South Carolina 29171**

**Mitchell Willoughby, Esquire
Willoughby & Hoefler, P.A.
Post Office Box 8416
Columbia, South Carolina 29202**



Beth Cogan, Paralegal

October 27, 2017



Ballard & Watson
Attorneys at Law
PERSISTENT. UNWAVERING.

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Via U.S. Mail

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: *Tom Efland v. Randy L. Mills and Richland County*
Appellate Case No.: 2017-001130

Dear Ms. Kitchings:

Enclosed for filing with your office is an original and seven copies of the **Response to Motion and Amended to Accept Late Filing of Initial Brief of Appellant and Designation of Matter** for the above-referenced matter. Please have your office file the original and return the filed copy via our self-addressed stamped envelope that is provided. If you have any questions, please do not hesitate to call.

With warm personal regards, I am,

Sincerely yours,

Beth Cogan, Paralegal
beth@desaballard.com

cc: Via U.S. Mail
S. Jahue Moore, Sr., Esquire
John Bradley, Jr., Esquire
Mitchell Willoughby, Esquire
Randy L. Mills (via email)



Law Offices of Desa Ballard

226 State Street
West Columbia, SC 29169

To:

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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