

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

W.C.C. 1302588
Appellate Case No. 2017-001732

RECEIVED
JAN 29 2018
SC Court of Appeals

Timothy Causey,.....Appellant,

v.

Horry County, Self-Insured
through S.C. Counties Workers' Compensation Trust,.....Respondents.

**RETURN TO MOTION
"FOR COURT TO ACCEPT APPELLANT'S
INITIAL BRIEF OUT OF TIME"**

The Respondents, Horry County and the South Carolina Counties Workers' Compensation Trust, respectfully request that the Appellant's Motion filed on January 19, 2018 be denied and that the above-referenced appeal be dismissed in accordance with Rule 208(a)(4) and Rule 260(a), S.C.A.C.R., based upon the following:

1. The Appellant's brief to the Court of Appeals was originally due on October 23, 2017. Thereafter, the Appellant requested, and was granted, two consecutive 30 day extensions to file the Initial Brief.

2. After requesting a third 30 day extension to file the Initial Brief, the Court of Appeals granted a final extension until January 17, 2018 ordered that “[n]o further extensions will be granted absent extraordinary circumstances.” (See attached Order of January 5, 2018).
3. The Appellant did not file his Initial Brief on or before January 17, 2018, as ordered by the Court of Appeals.
4. The Appellant did not file any Motion for Extension of Time on or before January 17, 2018.
5. Instead, the Appellant filed a Motion “For Court to Accept Appellant’s Initial Brief Out of Time” on January 19, 2018.
6. The Appellant’s Motion elucidates no “extraordinary circumstances” that would justify the circumvention of the Court’s January 5, 2018 Order.
7. Therefore, the Appellant is in violation of the Appellate Court Rules, specifically, Rule 208(a)(4), which clearly and unequivocally requires that the clerk of the appellate court “shall sign an order dismissing the appeal” “[u]pon the failure of the appellant to file and serve his brief within the time prescribed.”
8. Not only has the Appellant failed to file and serve his brief within the time prescribed by Rule 208, he failed to file and serve his brief within the time graciously extended him by the Court of Appeals by Order of January 5, 2018 and has further failed to demonstrate any

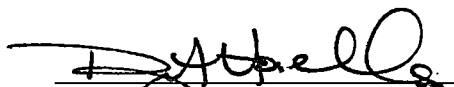
“extraordinary circumstances,” as specifically required by that Order.

9. In addition, the Appellant’s Motion “For Court to Accept Appellant’s Initial Brief Out of Time” does not comply with the requirements of Rule 240(c)(2), S.C.A.C.R., and this failure to comply should be deemed an abandonment of the Motion in accordance with Rule 240(g) and otherwise evinces it frivolity under Rule 269.

Therefore, the Appellants respectfully request that the Appellant’s Motion be denied and his appeal be dismissed in accordance with Rule 208(a)(4) and Rule 260(a), S.C.A.C.R.

Respectfully submitted,

January 24, 2018


Kirsten Leslie Barr
Roy A. Howell, III
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The South Carolina Court of Appeals

Timothy Causey, Appellant,

v.

Horry County, Self-Insured Employer through the S.C.
Counties Workers' Compensation Trust, Respondents.

Appellate Case No. 2017-001732

Trial Court Case No. 1302588

ORDER

The time for serving and filing the appellant's initial brief and designation of matter is hereby extended until January 17, 2018. No further extensions will be granted absent extraordinary circumstances.


FOR THE COURT

Columbia, South Carolina

cc:
Blake A. Hewitt, Esquire
Francis A. Humphries, Jr., Esquire
Roy Allen Howell, III, Esquire
Kirsten Leslie Barr, Esquire

FILED

January 5, 2018

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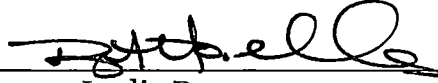
PROOF OF SERVICE

The undersigned hereby certifies that the above-named Appellant, Timothy Causey, was served with a of the attached Return to Motion for the Court to Accept the Appellant's Initial Brief Out of Time this 24th day of January 2018, by depositing a copy of the same in the United States Mail, first class postage prepaid, addressed to the parties of record, as follows:

Blake A. Hewitt, Esq.
P.O. Box 7965
Columbia, SC 29202

Francis A. Humphries, Jr., Esq
1300 Professional Drive, Suite 102
Myrtle Beach, SC 29577

January 24, 2018



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WORKERS' COMPENSATION DEFENSE

Reply to
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January 24, 2018

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

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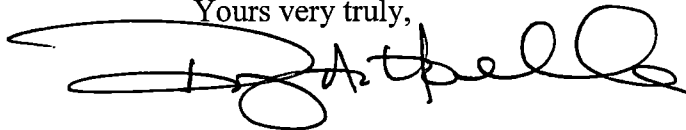
SC Court of Appeals

Re: Timothy Causey (dec.) v. Horry County
W.C.C. File No.: 1302588
Appellate Case No.: 2017-001732
Carrier File No.: 2013058409
Date of Accident: March 16, 2013

Dear Ms. Kitchings:

Enclosed herewith for filing, please find the original and six (6) copies of our Return to Motion for the Court to Accept the Appellant's Initial Brief Out of Time and original Proof of Service of the same in the above-reference case. By a copy of this correspondence, I am serving the other counsel of record with a copy of our Return to Motion.

Yours very truly,



Kirsten L. Barr
Roy A. Howell, III

KLB/dll/les

Enc.

cc: Crystal Jeffcoat, Ariel TPA (w/enc.) (email only)
Allison Mackey, Horry County (w/enc.)
Blake A. Hewitt, Esq. (w/enc.)
Francis A. Humphries, Jr., Esq. (w/enc.)

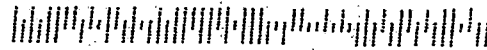




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