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**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

Case No. 2016-CP-40-00910
Appellate Case No. 2017-001750

RECEIVED

JAN 07 2019

SC Court of Appeals

Darris Hassell,

Respondent,

V.

The City of Columbia,

Appellant.

**Motion for Reconsideration with
Motion for Leave to File a Return Out of Time
To Appellant's Motion to Determine and Enforce Automatic Stay**

On December 31, 2018, Counsel for the Respondent received this Court's order of the same date, granting the Appellant's motion to stay proceedings on a post-trial motion pending in the Circuit Court. This was the first notice the Respondent had that the Appellant had even made such a motion. For this reason and others as explained below, the Respondent respectfully moves the Court to reconsider its motion, grant the Respondent's motion for leave to file a return out of time and accept the Return submitted herewith.

The case is before this Court on Plaintiff/Appellant's appeal from a judgment entered on the jury's verdict awarding the Plaintiff damages in the amount of \$200,075, and the denial of the Appellant City's motion for a new trial. After several extensions, the Appellant filed and served its initial brief and designations on January 3, 2019.

Meanwhile, on December 31, 2018, the Court had issued an order stating:

Appellant has filed a motion requesting this court to enforce the automatic stay pursuant to Rule 205, SCACR. Respondent did file a return. The hearing relating to the Frivolous Civil Proceedings Sanctions Act is a matter affected by this appeal. Accordingly, the motion to determine and enforce the automatic stay is granted.

The undersigned Counsel received the order via email from the Court's docketing clerk, Jessica Lucas on December 31, 2018.

Counsel was unaware that any such motion had been filed. Upon receiving the Court's order, Counsel accessed the Court's online database and discovered that the Appellant had filed a Motion to Determine and Enforce Automatic Stay on December 11, 2018, seeking to stop the Trial Court from proceeding with a hearing and ruling on Respondent's post-trial Rule 11 motion. The undersigned Counsel had never been consulted about Appellant's motion and did not receive the motion through the U.S. Mail¹. The undersigned Counsel also had never received a copy of the documents and cover letter notifying the Trial Judge, L. Casey Manning, of Appellant's Motion to Enforce the Automatic Stay.

It appears that the Appellant correctly identified Respondent's Counsel and his address on the Certificate of Service filed with the motion; however, the undersigned Counsel emphatically denies receipt of any notice of Appellant's motion. Due to the failure of service, Respondent was unable to timely respond to the motion. By this motion, the Respondent asks the Court to accept the Return submitted herewith.

In addition, the Respondent asks the Court to reconsider its order based on two points apparently misapprehended by the Court: (1) contrary to the Court's order, the Respondent did not file a Return to address the merits of the Appellant's legal arguments because it had never

¹ Nor did Respondent's Counsel receive a courtesy copy by email; although he had previously received courtesy email notices of certain other filings from Mr. Hewitt's office.

received the motion; and (2) the motion pending in the Trial Court is founded on Rule 11 and does not relate to the Frivolous Civil Proceedings Sanctions Act. As discussed in the Return, there is sound caselaw to support the proposition that the trial court does not lose jurisdiction over timely-filed collateral post-trial motions after an appeal is filed from a judgment entered on the jury's verdict. In the alternative, the Respondent submits that to the extent that this Court considers that the Rule 11 motion is a matter affected by this appeal stayed by Rule 241, the more judicially efficient and just process would be hold briefing on this appeal in abeyance, and remand to allow the Trial Court to rule on the Rule 11 motion. In do so, any appeal from the Trial Court's ruling on said motion could be consolidated with this appeal for a full and complete resolution on the related issues in one proceeding, rather than create successive appeals which would delay justice and compensation for the injured Plaintiff.

For these reasons, the Respondent respectfully moves the Court to reconsider its motion, grant the Respondent's motion for leave to file a return out of time and accept the Return submitted herewith.

Respectfully submitted,



Paul L. Reeves #4671

Reeves and Lyle, LLC

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Columbia, South Carolina 29211

Office: 803-92-0001

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Attorney for Respondent

Columbia, South Carolina
January 7, 2019

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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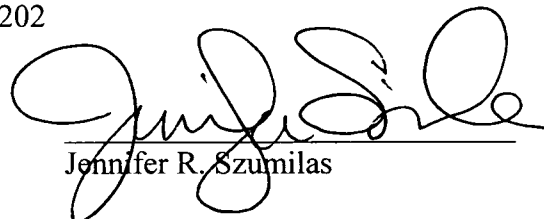
PROOF OF SERVICE

The undersigned hereby certified that on the date indicated below, she served counsel for Appellant with a copy of the *Return to Appellant's Motion to Determine and Enforce Automatic Stay, or in the alternative, Motion to Lift the Automatic Stay and Motion for Reconsideration with Motion for Leave to File a Return Out of Time To Appellant's Motion to Determine and Enforce Automatic Stay* by mailing copies of the same by United States Mail with first Class postage prepaid to the following addresses:

Blake A. Hewitt, Esquire
Bluestein Thompson Sullivan, LLC
PO Box 7965
Columbia, SC 29202

Teresa A. Knox, Esquire
W. Michael Hemlepp, Jr., Esquire
Office of the City Attorney
PO Box 667
Columbia, SC 29202

January 7, 2019


Jennifer R. Szumilas

Reeves & Lyle

ATTORNEYS AT LAW

RECEIVED

JAN 07 2019

SC Court of Appeals

January 7, 2019

VIA HAND DELIVERY

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

Re: Darris Hassell v. City of Columbia
Appellate Case No.: 2017-001750

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven (7) copies of a *Return to Appellant's Motion to Determine and Enforce Automatic Stay, or in the alternative, Motion to Lift the Automatic Stay and Motion for Reconsideration with Motion for Leave to File a Return Out of Time To Appellant's Motion to Determine and Enforce Automatic Stay* in connection with the above-referenced matter. Also enclosed is a Proof of Service and check in the amount of . Please return the additional filed copy to me via courier.

Thank you for your assistance. Please do not hesitate to contact me should you have any questions or require anything additional. I am,

Very truly yours,



Paul L. Reeves
Attorney at Law

PLR:jrs

Enclosures

Cc: Blake A. Hewitt, Esquire
Teresa A. Knox, Esquire
W. Michael Hemlepp, Esquire