

# The South Carolina Court of Appeals

Sally K. Favalaro, Appellant,

v.

Robert Colones, Ronald Boring, Marie Segars, Debbie Locklair, Shannon Carr, Michael Rose, and McLeod Regional Medical Center, Respondents.

Appellate Case No. 2018-001620

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## ORDER

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On August 28, 2018, Appellant served a notice of appeal from the circuit court's May 9, 2018 order of dismissal, June 26, 2018 order striking "Plaintiff's First Amended Complaint," and July 30, 2018 order denying Appellant's motion for reconsideration. Respondents have filed a motion to dismiss.

The circuit court's May 9, 2018 order dismissed the case with prejudice. Appellant failed to timely serve and file either a motion for reconsideration or a notice of appeal from this order of dismissal. *See* Rule 203(b)(1), SCACR ("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."); *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14–15, 602 S.E.2d 772, 775 (2004) ("The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice."); *see also Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 329, 730 S.E.2d 282, 285 (2012) ("[A]n unappealed ruling, right or wrong, is the law of the case."). We note Appellant did file a document entitled "First Amended Complaint"; however, this filing did not toll the time for service of the notice of appeal. *See Quality Trailer Prod., Inc. v. CSL Equip. Co.*, 349 S.C. 216, 221, 562 S.E.2d 615, 618 (2002) ("We find that I Corp.'s second motion literally recites the arguments previously raised and previously ruled upon by the trial court in I Corp.'s first motion[,] . . . and thus did not toll the time for serving the notice of

appeal."). The circuit court's June 26, 2018 order and July 30, 2018 order merely reiterated that the case had previously been finally decided on May 9, 2018. *See Mickle v. Blackmon*, 255 S.C. 136, 140, 177 S.E.2d 548, 549 (1970) (treating a motion based on its "substance and effect" rather than how it is captioned).

For the reasons set forth above, Respondent's motion to dismiss is granted and this appeal is dismissed. The remittitur will be sent as required by Rule 221(b), SCACR.

  
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FOR THE COURT

Columbia, South Carolina

cc:  
Sally K. Favaloro  
Michael Montgomery Shetterly, Esquire

**FILED**  
January 15, 2019