

# The South Carolina Court of Appeals

Old Rice Retreat at Cane Bay Plantation Property  
Owners Association, Inc., Respondent,

v.

Damairys Mirabent, also known as Damairys Rigoroso,  
Appellant.

Appellate Case No. 2019-000137

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## ORDER

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Appellant served the notice of appeal on January 29, 2019. Because the Notice of Electronic Filing (NEF) was transmitted on December 20, 2018, the service was untimely. Accordingly, Respondent's motion to dismiss is granted. *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."); *In re S.C. Elec. Filing Policies & Guidelines*, 415 S.C. 1, 10–11, 780 S.E.2d 600, 605 (2015) ("An Authorized E-Filer has receipt of written notice of the entry of a judgment or the filing of an order upon receipt of the emailed NEF. It shall be the responsibility of an Authorized E-Filer to review the content of the E-Filed order to determine its force and effect; however, any delay in accessing the E-Filing System to review the order does not affect the time of receipt."); *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."). The remittitur will be sent as required by Rule 221(b), SCACR.

  
FOR THE COURT

Columbia, South Carolina

cc:

Karen Marie DeJong, Esquire  
John Joseph Dodds, III, Esquire

**FILED**

April 10, 2019