

90172

**THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

APPEAL FROM GREENVILLE COUNTY  
COURT OF COMMON PLEAS  
THE HONORABLE G. THOMAS COOPER, JR.  
CIRCUIT COURT JUDGE

**RECEIVED**

JUL 01 2019

**SC Court of Appeals**

APPELLATE CASE NO. 2018-001606  
CIVIL ACTION NO. 2018-CP-23-3544

Dwight Gray,

**APPELLANT,**

versus

Kimbrells Furniture,

**RESPONDENT.**

**RESPONDENT'S MOTON TO DISMISS APPEAL  
FOR LACK OF PROSECUTION**

Respondent Kimbrells Furniture hereby moves for an Order dismissing the above-captioned appeal for lack of prosecution. Respondent moves for this relief upon the following grounds:

This action arises out of a Claim and Delivery filed by Respondent Kimbrells Furniture on or about January 9, 2018 in the Magistrate's Court for Greenville County against Appellant Dwight Gray with respect to Appellant's failure to pay as contractually obligated for furniture ordered from Respondent. Respondent prevailed in the Magistrate's Court, which judgment was then affirmed on appeal by the Circuit Court.

Appellant subsequently filed the Notice of Appeal of the Circuit Court's Order in this Court over ten months ago on approximately September 1, 2018. Following this Court's letter dated September 5, 2018 to Appellant regarding deficiencies with the Notice of Appeal, Appellant served the Notice of Appeal upon Respondent on September 21, 2018.

Pursuant to Rule 207(a)(1) of the South Carolina Appellate Court Rules, Appellant was required to have ordered the transcript of the proceedings below within ten (10) days of the date of service of the notice of appeal, or by October 1, 2018. Rule 207(a)(1) also required Appellant to "make satisfactory arrangements (including agreement regarding payment for the transcript), in writing with the court reporter for furnishing the transcript."

Despite being advised by this Court on September 28, 2018 and March 6, 2019 of the rules for ordering a transcript, Appellant has never complied with the requirements of Rule 207(a)(1) for ordering a transcript, including making arrangements with the court reporter for the payment of and furnishing of the transcript and copying counsel for Respondent on any correspondence with the court reporter. To Respondent's knowledge, Appellant has not made any contact with the court reporter to order the transcript as required by the South Carolina Appellate Court Rules.

Appellant's failure to comply with the South Carolina Appellate Court Rules has significantly delayed this appeal and has hindered the ability of Respondent to move forward with the relief granted by the Magistrate's Court for Appellant's default on payments owed to Respondent. Accordingly, Respondent Kimbrells Furniture respectfully requests this Court to dismiss Appellant Dwight Gray's appeal with

prejudice for lack of prosecution.

Respectfully submitted,



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S. Nelson Weston, Jr.  
Carmen V. Ganjehsani  
RICHARDSON, PLOWDEN & ROBINSON, PA  
Post Office Drawer 7788  
Columbia, South Carolina 29202  
(803) 771-4400  
**ATTORNEYS FOR RESPONDENT  
KIMBRELLS FURNITURE**

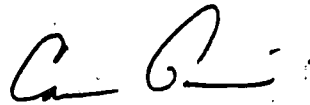
June 28, 2019.

**CERTIFICATE OF SERVICE**

I, the undersigned, attorney for Respondent Kimbrells Furniture do hereby certify that I have this date served the foregoing Motion to Dismiss Appeal for Lack of Prosecution, dated June 28, 2019, by causing the same to be deposited in a United States Postal Service mailbox, postage prepaid, addressed to counsel of record as indicated below:

Dwight Gray  
209 Mountain Gap Rd.  
Taylors, SC 29687  
*Appellant Pro Se*

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Carmen V. Ganjehsani  
RICHARDSON, PLOWDEN & ROBINSON, PA  
1900 Barnwell Street (29201)  
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Columbia, South Carolina 29202  
(803) 771-4400  
**ATTORNEYS FOR RESPONDENT  
KIMBRELLS FURNITURE**

Dated: June 28, 2019.

Reply to: **Carmen V. Ganjehsani**  
Direct Dial: 803-253-8692  
cganjehsani@richardsonplowden.com

June 28, 2019

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

Re: ***Dwight Gray v. Kimbrells Furniture***  
**Appellate Case No. 2018-001606**  
**RPR File No.: 236-140**

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SC Court of Appeals

Dear Ms. Kitchings:

I am enclosing for filing the original and six copies of Respondent Kimbrells Furniture's Motion to Dismiss Appeal for Lack of Prosecution in the above referenced matter, along with our Certificate of Service. Also enclosed is our firm's check in the amount of \$50.00 to cover the filing fee for this Motion.

By copy of this letter, we are serving a copy of this Motion on Appellant *pro se*.

If you should have any questions, please do not hesitate to contact me.

Sincerely,



Carmen V. Ganjehsani

CVG  
Encs.  
cc: Dwight Gray

236-140

RICHARDSON  
RICHARDSON PLOWDEN ROBINSON, P.A.  
PLOWDEN  
ATTORNEYS AT LAW

COLUMBIA P.O. Drawer 7788 • Columbia, SC 29202

The Honorable Jenny Abbott Kitchings  
Clerk of Court, S.C. Court of Appeals  
P.O. Box 11629  
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