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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

R. Knox McMahon, Circuit Court Judge

Case No.: 2017-CP-32-00507

**RECEIVED**  
JUL 12 2019  
SC Court of Appeals

LM Insurance Corporation, Plaintiff,

v.

Josh Steele, Defendant, Third-Party Plaintiff, .....Appellant,

v.

Ernie Yarborough d/b/a Yarborough

Insurance Agency, Third-Party Defendant .....Respondent.

**MOTION TO DISMISS APPEAL**

Respondent Ernie Yarborough d/b/a Yarborough Insurance Agency hereby moves to dismiss the appeal in the above-reverenced matter, with prejudice, pursuant to Rule 203, SCACR, based on Appellant's failure to timely file his Notice of Appeal with the Lexington County Court of Common Pleas. The Circuit Court's Order Granting Third-Party Defendant Ernie Yarborough d/b/a Yarborough Insurance Agency's Motion to Dismiss, was filed on September 19, 2017, (R. 1-5), and the Order denying Appellant's timely Motion for Reconsideration was filed on October 16, 2017. (R. 6). Appellant timely filed his Notice of Appeal with this Court on October 18, 2017 and served it on Respondent on the same date. However, Appellant failed to file the Notice of Appeal with the Circuit Court until July 1, 2019, (see Exh. A), over a year and a half late.

Pursuant to Rule 203(d)(1)(A), SCACR, “the notice of appeal shall be filed with the clerk of the lower court and the Clerk of the Court of Appeals.” Furthermore, the notice of appeal “shall be filed with the clerk of the lower court ... within ten (10) days after the notice of appeal is served.” Rule 203(d)(1)(B), SCACR. Appellant missed this deadline by some 20 months. He has provided no explanation or excuse for failing to file his Notice of Appeal with the Circuit Court. As a result, the parties have expended time and money briefing this appeal, which is tentatively set for oral argument in September or October of 2019. Instead of expending any more of the Court’s and parties’ time needlessly, this Court should dismiss this appeal with prejudice based on Appellants’ unexplained and inexplicable failure to timely file his Notice of Appeal with the Circuit Court. *See Douglas v. State*, 332 S.C. 67, 69, 504 S.E.2d 307, 308 (1998) (initial appeal dismissed for lack of jurisdiction based on failure to timely file notice of appeal).

Respondent also requests that the proposed oral argument dates be suspended or postponed until this Motion is decided by the Court.

This Motion conforms with Rules 240 and Rule 267, SCACR.

July 10, 2019

McANGUS GOUDELOCK & COURIE, LLC



Helen F. Hiser

S.C. Bar No.: 76124

735 Johnnie Dodds Blvd., Suite 200 (29464)

P.O. Box 650007

Mount Pleasant, South Carolina 29465

(843) 576-2900

*Attorneys for Respondent Ernie Yarborough d/b/a  
Yarborough Insurance Agency*

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OCT 20 2017

SC Court of Appeals

LM Insurance Corporation,	v.	Plaintiff,
Josh Steele,	v.	Appellant,
Ernie Yarborough d/b/a Yarborough Insurance Agency,	v.	Respondent.

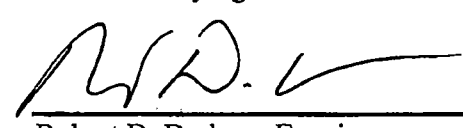
NOTICE OF APPEAL

Josh Steele appeals the following rulings and Orders of the Honorable R. Knox McMahon:

- Order Granting Third-Party Defendant Ernie Yarborough d/b/a Yarborough Insurance Agency's Motion to Dismiss dated September 19, 2017; and
- Order (related to Appellant's Motion for Reconsideration dated October 12, 2017.

Appellant received written notice of entry of the Order denying the motion for reconsideration on October 16, 2017.

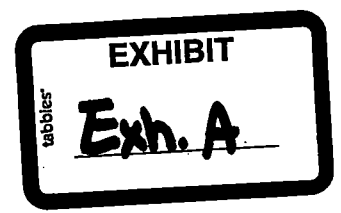
October 18, 2017




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Robert D. Dodson, Esquire  
Law Offices of Robert Dodson, P.A.  
1722 Main Street, Suite 200  
Columbia, SC 29201  
Telephone: 803-252-2600  
Facsimile: 803-771-2259

*Attorney for Appellant*



Counsel for *Respondents*:

Elizabeth M. McMillan  
McAngus Goudelock & Courie  
P.O. Box 2980  
Greenville, SC 29602  
Telephone: 864-239-4037

Other Counsel for *Plaintiff*:

Amanda M. Scott  
Parnell & Crum, P.A.  
P.O. Box 743  
White Rock, SC 29177  
Telephone: 803-252-0034

Stephanie G. Brown, Esquire  
Wall Templeton & Haldrup, P.A.  
P.O. Box 1200  
Charleston, SC 29402  
Telephone: 843-329-9500

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Case No. 2017-CP-32-00507

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v. Plaintiff,

Josh Steele,

v. Appellant,

Ernie Yarborough d/b/a Yarborough  
Insurance Agency,

v. Respondent.

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PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Respondents, Ernie Yarborough d/b/a/ Yarborough Insurance Agency by depositing a copy of it in the United States Mail, postage prepaid, addressed to his attorney of record, Elizabeth M. McMillan, Esquire, McAngus Goude-lock & Courie, P.O. Box 2980, Greenville, SC 29602

October 18, 2017



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*Attorney for Appellant*

Law Offices of  
**ROBERT DODSON, P.A.**  
1722 Main Street, Suite 200  
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Robert D. Dodson,  
Esquire  
Attorney at Law  
Also Licensed in N.C.



Telephone: 803.252.2600  
Facsimile: 803.771.2259

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SC Court of Appeals

October 18, 2017

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: LM Insurance Corporation, Plaintiff v. Josh Steele, Appellant v. Ernie  
Yarborough d/b/a Yarborough Insurance Agency, Respondent.

Dear Ms. Kitchings:

Enclosed for filing is a Notice of Appeal in the above case. Also enclosed are the  
following:

- 1) Proof of service of the notice of appeal on the respondents;
- 2) A copy of the orders which are being challenged on appeal; and,
- 3) A filing fee of \$100.00.

October 18, 2017

A handwritten signature in black ink, appearing to read 'R.D.', with a long horizontal flourish extending to the right.

Robert D. Dodson, Esquire  
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1722 Main Street, Suite 200  
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Telephone: 803-252-2600  
Facsimile: 803-771-2259  
*Attorney for Appellants*

Counsel for *Respondents*:

Elizabeth M. McMillan  
McAngus Goudelock & Courie

P.O. Box 2980  
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Telephone: 864-239-4037

Other Counsel for *Plaintiff*:

Amanda M. Scott  
Parnell & Crum, P.A.  
P.O. Box 743  
White Rock, SC 29177  
Telephone: 803-252-0034

Stephanie G. Brown, Esquire  
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Insurance Agency, Third-Party Defendant ..... Respondent.

**PROOF OF SERVICE**

I certify that I have served the Respondent's **Motion to Dismiss Appeal** on Josh Steele, by depositing a copy of it in the United States Mail, postage prepaid, on July 10, 2019, addressed to his attorney of record:

Robert D. Dodson, Esquire  
LAW OFFICES OF ROBERT DODSON, P.A.  
1722 Main Street, Ste. 200  
Columbia, South Carolina 20201

  
Makenzie Broughton  
Legal Assistant to Helen F. Hiser  
McANGUS GOUDELOCK & COURIE LLC  
735 Johnnie Dodds Blvd., Suite 200  
PO Box 650007  
Mount Pleasant, South Carolina 29465  
(843) 576-2900

*Attorneys for Respondent*

**Reply To**

HELEN F. HISER  
Direct Dial: (843) 576-2930  
helen.hiser@mgclaw.com

July 10, 2019

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**Via U.S. Mail**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: LM Insurance Corporation vs. Josh Steele vs. Ernie Yarborough d/b/a  
Yarborough Insurance Agency  
Civil Action No.: 2017-CP-32-00507 (Lexington)  
Carrier Claim No.: N/A  
MGC File No.: 20595.17033  
Appeal No.: 2017-002220

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents' Motion to Dismiss Appeal, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return a clocked-in copy in the enclosed self-addressed, stamped envelope. Also enclosed is our firm's check in the amount of \$50 for filing the motion.

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

Yours truly,

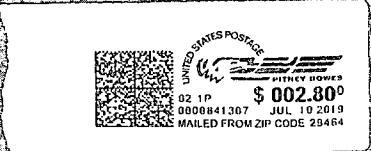
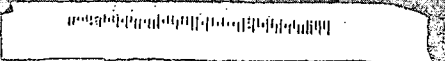
McAngus Goudelock & Courie, LLC



Helen F. Hiser

Enclosures

cc: Robert D. Dodson, Esq.



**mgc** | INSURANCE  
DEFENSE

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20595.17033/HFH/mtb  
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