

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

The Honorable Mark J. Hayes, II, Circuit Court Judge

Circuit Court Case No. 2015-CP-07-02047

Appellate Case No. 2019-000200

RECEIVED

AUG 28 2019

SC Court of Appeals

James R. Brady,

Respondent,

v.

Hilton Head Homes at Allenwood, LLC; Village
Square Development Company, LLC; Lancaster
Redevelopment Corp.; and Gary L. Grossman,

Appellants.

RESPONDENT'S RETURN TO APPELLANTS' SECOND MOTION FOR
EXTENSION TO FILE INITIAL BRIEF

Respondent, by and through his undersigned counsel, submits this Return to Appellants' Second Motion for an Extension of Time to File Initial Brief and Designation of Matter. Respondent respectfully requests that the order disposing this motion for extension address two separate items.

I

Respondent's first request is that the order disposing this new motion for extension address the clerk's obligation, or lack thereof, to dismiss this appeal pursuant to Rule 208(a)(4), SCACR. Background information relevant to this request is as follows:

1. Appellants represented that May 15, 2019 was the date they received the transcript for the underlying hearing.

2. Appellants therefore were obligated to have served and filed their initial brief no later than June 14.

3. Appellants failed to both serve and file the initial brief by June 14.

4. Appellants also failed to serve and file a motion for extension by June 14.

5. It therefore follows that, at least as of that time, the clerk had an obligation to dismiss this appeal per Rule 208(a)(4), SCACR.

6. Subsequently, on June 19, 2019—five days after the June 14 initial brief deadline passed—Appellants filed a previous version of this motion for extension to file an initial brief.

7. On July 22, 2019, the Honorable Judge H. Bruce Williams entered an order granting Appellants' previous motion for extension to file an initial brief.

8. The text of Judge Williams' order does not expressly address whether the clerk is to ignore the Rule 208(a)(4), SCACR prescription to dismiss this appeal. Because the Appellants have brought an identical extension request before the Court again, Respondent respectfully requests that the order disposing this new motion address the clerk's obligation, or lack thereof, with respect to Rule 208(a)(4), SCACR.

II

In addition to the above, Respondent respectfully requests that the order disposing this motion prohibits Appellants from filing future motions for extensions in this appeal. In support of this request, counsel for Respondent has submitted an affidavit along with this Return.

Respectfully submitted,
CAPELL THOMSON, LLC



Glynn L. Capell (16552)
GCapell@CapellLaw.com
Charles W. Thomson (101471)
CThomson@CapellLaw.com
The Blake-Grimké House
321 East Bay St.
Charleston, SC 29401
(843) 501-0423
Attorneys for Respondent
James R. Brady

August 27, 2019
Charleston, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

The Honorable Mark J. Hayes, II, Circuit Court Judge

RECEIVED
AUG 28 2019
SC Court of Appeals

Circuit Court Case No. 2015-CP-07-02047

Appellate Case No. 2019-000200

James R. Brady,

Respondent,

v.

Hilton Head Homes at Allenwood, LLC; Village
Square Development Company, LLC; Lancaster
Redevelopment Corp.; and Gary L. Grossman,

Appellants.

PROOF OF SERVICE

I certify that I have served the **Respondent's Return to Appellants' Second Motion for Extension to File Initial Brief** and **Affidavit of Respondent's Counsel in Support of Return to Appellants' Second Motion for Extension to File Initial Brief** on the above-named Appellants by depositing a copy of it in the United States Mail, postage prepaid, on August 27, 2019, addressed to their attorney of record, G. Hamlin O'Kelley, III, 652 Coleman Blvd., Suite 200, Mt. Pleasant, SC 29464.

August 27, 2019



Charles W. Thomson, Esq.
CAPELL THOMSON, LLC
The Blake-Grimké House
321 East Bay St.
Charleston, SC 29401
(843) 501-0423
Attorneys for Respondent
James R. Brady

Charles W. Thomson | Charleston
CThomson@CapellThomson.com

August 27, 2019

Via FedEx Overnight

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: **Brady v. Hilton Head Homes at Allenwood, LLC, et al.**
Appellate Case No. 2019-000200

Dear Ms. Kitchings:

Enclosed for filing in the above case are as follows:

- 1) An original and seven copies of the Respondent's Return to Appellants' Second Motion for Extension to File Initial Brief;
- 2) An original and seven copies of Affidavit of Respondent's Counsel in Support of Return to Appellants' Second Motion for Extension to File Initial Brief; and
- 3) An original and seven copies of the Proof of Service of the above.

Please file both and return one clocked copy of each to me in the self-addressed, stamped return envelope also enclosed. Thank you for your attention to this matter.

Sincerely yours,

Capell Thomson, LLC



Charles W. Thomson

Enclosures

CWT/cgb

cc: G. Hamlin O'Kelley, Counsel for Appellants

RECEIVED
AUG 28 2019
SC Court of Appeals

FedEx
Express

The World On Time.

Reusable

pe

TO REUSE: Cover or mark through any previous shipping information.

Align top of FedEx Express® Shipping Label here.

From: Brian Graham
334 East Bay Street
Suite C
CHARLESTON SC 29401
US

TO: THE HONORABLE JENNY ABBOTT KITCHING
SC COURT OF APPEALS
1220 SENATE ST.
COLUMBIA SC 29201
(US)

1043 123-0000
2019 01 15 10:10 AM
CR: 114508661/MSX13400
BILL SENDER



RECEIVED

TRK# 7894 1379 8621
AUG 28 2019
SC Court of Appeals
29201

9622 0019 0 (000 000 0000) 0 00 7894 1379 8621



Align bottom of Peel and Stick Airbill or Pouch here.