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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM MARLBORO COUNTY
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

RECEIVED
DEC 16 2019
SC Court of Appeals

Appellate Case No. 2019-000872

Sharon Thompson,.....Appellant,

v.

Sprint Food Store #728..... Respondent.

RESPONDENT’S MOTION TO DISMISS APPEAL

TO: THE HONORABLE JUDGES OF THE COURT OF APPEALS OF SOUTH
CAROLINA:

Pursuant to Rules 240 and 260(a), SCACR, Respondent Sprint Food
Store #278 (“Respondent) respectfully moves this Court for an Order
dismissing the above-captioned appeal.

PROCEDURAL BACKGROUND

On May 13, 2019, the Circuit Court entered an Order granting Respondent's Motion for Summary Judgment. On or about May 21, 2019, Appellant filed her Notice of Appeal, appealing the summary judgment order of the Circuit Court. Subsequent to the filing of her Notice of Appeal, this Court issued a deficiency correspondence to Appellant, advising of deficiency related to the South Carolina Appellate Court Rules; specifically, that Appellant had failed to submit a proof of service that a copy of the notice of appeal was filed with the trial court clerk.

On June 19, 2019, this Court issued a second deficiency correspondence to Appellant, advising that the time for ordering a transcript had expired. This Court advised: "Within ten days of the date of this letter, you must file a copy of the letter showing that you have ordered the transcript directly from the court reporter, along with a motion requesting permission to order the transcript outside the filing deadlines set by Rule 207 of the South Carolina Appellate Court Rules. Your appeal will be dismissed if not motion is made within ten days of the day of this letter."

On July 1, 2019, Appellant filed with the Circuit Court a Motion to Extend Deadline to Order Transcript. Additionally, Appellant filed with the Circuit Court on the same date a correspondence for Request for Transcript, issued to Krystal J. Smith, Court reporter during the Motion for Summary Judgment Hearing. Despite the Court of Appeals requesting a copy of the request for transcript and motion to extent deadline for ordering a transcript, and the Court of Appeals having exclusive jurisdiction upon the filing on the Notice of Appeal, Appellant filed the correspondence requesting the transcript and motion in the Circuit Court.

By Order filed July 15, 2019, this Court dismissed the appeal, finding: “Appellant has failed to provide this Court with a copy of the transcript order, as required by Rule 207 of the South Carolina Appellate Court Rules and this Court’s letter dated June 19, 2019. Accordingly, this appeal is dismissed.” All notices, orders, and letters from the Court are collectively attached as **Exhibit A**.

On July 29, 2019, Appellant filed a Motion to Reopen the Appeal, advising that an extension of time to order the transcript as well as correspondence ordering the transcript were “inadvertently filed in the Marlboro County Court of Common Pleas.” **Exhibit B**. This motion was not

served upon undersigned counsel. The Court subsequently issued two additionally deficiency correspondences related to failure to file a proof of service. **Exhibit C.** Respondent filed a memorandum in opposition of Appellant's motion to reinstate.

The Court subsequently issued an Order, reinstating the appeal on October 25, 2019, and provided for the following deadlines: "Appellant's initial brief and designation of matter shall be served and filed within thirty days of the date of this order." **Exhibit D.**

Appellant filed and served her Initial Brief, without a designation of matter, on December 2, 2019, approximately one week after the Court's designated deadline in the October 25, 2019, Order. In response to the filing, the Court issued a subsequent deficiency notice regarding Appellant's Designation of Matter and briefing requirements. **Exhibit E.**

LAW/ANALYSIS

Rule 260 of the South Carolina Rules of Civil Procedure states:

Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.

Rule 260(a), SCACR. Where a party fails to comply with the Court Rules, dismissal is warranted.

Upon every filing by Appellant, the Court has issued a deficiency correspondence, directing Appellant to comply with the South Carolina Appellate Court Rules. In total, the Court has now issued five deficiency correspondences.

Additionally, Appellant failed to comply with the Court's October 25, 2019, Order, and filed her initial brief in an untimely manner.

Due to Appellant's continued failure to comply with the Appellate Court Rules, and the untimely filing of Appellant's Initial Brief, Respondent respectfully requests the Court dismiss Appellant's appeal pursuant to Rule 260, SCACR.

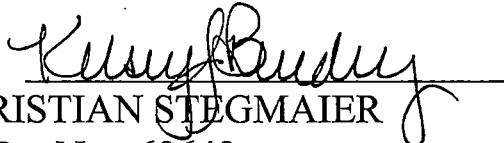
CONCLUSION

Respondent respectfully requests the Court dismiss Appellant's Appeal.

[SIGNATURE PAGE FOLLOWS]

Respectfully submitted,

COLLINS & LACY, P.C.

By: 
CHRISTIAN STEGMAIER
SC Bar No: 68648
cstegmaier@collinsandlacy.com
KELSEY J. BRUDVIG
SC Bar No: 101680
kbrudvig@collinsandlacy.com
1330 Lady Street, Sixth Floor (29201)
Post Office Box 12487
Columbia, SC 29211
(803) 256-2660 (voice)
(803) 771-4484 (fax)

ATTORNEYS FOR RESPONDENT SPRINT
FOOD STORES, INC.

RESPONDENT'S MOTION TO DISMISS

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM MARLBORO COUNTY
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

Appellate Case No. 2019-000872

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SC Court of Appeals

Sharon Thompson,.....Appellant,

v.

Sprint Food Store #728..... Respondent.


PROOF OF SERVICE

I hereby certify that I served Respondent's Motion to Dismiss upon all parties, by placing a copy in the United States mail, postage prepaid, to all counsel of record on December 16, 2019, addressed to the following:

Marshall S. Weaver, Esquire
Weaver Law Firm, LLC
Post Office Box 3888
Florence, SC 29502
Counsel for Plaintiff

Respectfully submitted,

COLLINS & LACY, P.C.

By: 
CHRISTIAN STEGMAIER
SC Bar No: 68648
cstegmaier@collinsandlacy.com
KELSEY J. BRUDVIG
SC Bar No: 101680
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ATTORNEYS FOR RESPONDENT SPRINT
FOOD STORES, INC.

**PROOF OF SERVICE- RESPONDENT'S
MOTION TO DISMISS**

EXHIBIT A



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

June 04, 2019

Mr. Marshall Solomon Weaver, Sr., Esquire
PO Box 3888
Florence SC 29502

Re: Sharon Thompson v. Sprint Food Store
Appellate Case No. 2019-000872

Dear Counsel:

Upon reviewing your notice of appeal, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or your appeal will be dismissed:

- The proof of service does not indicate that a copy of the notice of appeal was filed with the trial court clerk.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Kelsey Jan Brudvig, Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
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1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
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www.sccourts.org

June 19, 2019

Mr. Marshall Solomon Weaver, Sr., Esquire
PO Box 3888
Florence SC 29502

Re: Sharon Thompson v. Sprint Food Store
Appellate Case No. 2019-000872

Dear Counsel:

Our records reflect that the time for ordering the transcript has expired. Within ten days of the date of this letter, you must file a copy of the letter showing that you have ordered the transcript directly from the court reporter, along with a motion requesting permission to order the transcript outside of the filing deadlines set by Rule 207 of the South Carolina Appellate Court Rules. Your appeal will be dismissed if no motion is made within ten days of the date of this letter.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Kelsey Jan Brudvig, Esquire

The South Carolina Court of Appeals

Sharon Thompson, Appellant,

v.

Sprint Food Store #728, Respondent.

Appellate Case No. 2019-000872

The Honorable J. Derham Cole
Marlboro County
Trial Court Case No. 2017CP3400367

ORDER

Appellant has failed to provide this Court with a copy of the transcript order, as required by Rule 207 of the South Carolina Appellate Court Rules and this Court's letter dated June 19, 2019. Accordingly, this appeal is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:
Marshall Solomon Weaver, Sr., Esquire
Kelsey Jan Brudvig, Esquire

FILED

July 15, 2019 S.

EXHIBIT B

EXHIBIT C



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
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1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
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www.sccourts.org

July 30, 2019

Mr. Marshall Solomon Weaver, Sr., Esquire
PO Box 3888
Florence SC 29502

Re: Sharon Thompson v. Sprint Food Store
Appellate Case No. 2019-000872

Dear Counsel:

Upon reviewing your motion to reinstate, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Kelsey Jan Brudvig, Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
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July 30, 2019

Mr. Marshall Solomon Weaver, Sr., Esquire
PO Box 3888
Florence SC 29502

Re: Sharon Thompson v. Sprint Food Store
Appellate Case No. 2019-000872

Dear Counsel:

Upon reviewing your motion to allow the late filing of the transcript order, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Kelsey Jan Brudvig, Esquire

EXHIBIT D

The South Carolina Court of Appeals

Sharon Thompson, Appellant,

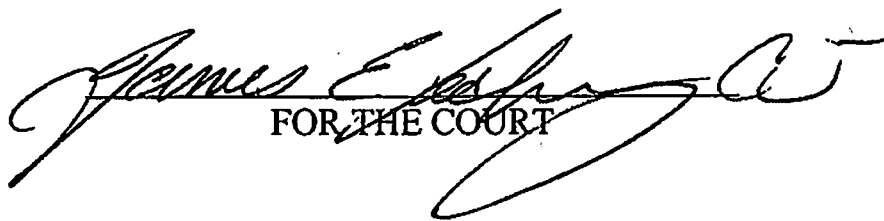
v.

Sprint Food Store #728, Respondent.

Appellate Case No. 2019-000872

ORDER

After careful consideration, the motion to reinstate is granted. To the extent Appellant has requested this court to her to order the transcript out of time, the request is granted. Appellant's initial brief and designation of matter shall be served and filed within thirty days of the date of this order.


FOR THE COURT

Columbia, South Carolina

cc:
Marshall Solomon Weaver, Sr., Esquire
Kelsey Jan Brudvig, Esquire

FILED

October 25, 2019

EXHIBIT E



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

December 05, 2019

Mr. Marshall Solomon Weaver, Sr., Esquire
PO Box 3888
Florence SC 29502

Re: Sharon Thompson v. Sprint Food Store
Appellate Case No. 2019-000872

Dear Counsel:

Upon reviewing your appellant's initial brief, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or your appeal will be dismissed:

- The initial brief is not accompanied by a designation of matter to be included in the record on appeal. The material you submitted with your initial brief need to only be named in the designation of matter and must be submitted in the record on appeal, pursuant to Rules 209 and 210, SCACR.
- The document has not been signed as required by Rule 267(b), SCACR.
- The brief includes document excerpts, which are not permitted as part of the appellate brief. Rather, documents should be designated as set forth in Rule 209, SCACR, and included as part of the record on appeal.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Kelsey Jan Brudvig, Esquire



Kelsey J. Brudvig | D: 803.255.0418 | E: kbrudvig@collinsandlacy.com

December 16, 2019

VIA HAND DELIVERY

The Honorable Jenny A. Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED
DEC 16 2019
SC Court of Appeals

Re: Sharon Thompson v. Sprint Food Stores #728/Sprint Food Stores, Inc. v. Allen Moore
Appellate Case No. 2019-000872
Claim No. 1009173
C&L File No. 001832-00125


Dear Ms. Kitchings:

Please find enclosed the original and seven (7) copies of Respondent's Motion to Dismiss Appeal in connection with the above referenced matter. Also enclosed is our firm's check in the amount of \$50.00, representing the motion filing fee. Please file the originals and return one copy to our office via our courier.

By copy of this letter to counsel of record, we are serving same on them.

Thank you for your attention to this matter.

Respectfully,



Kelsey J. Brudvig

KJB/net

Enclosures

cc (via U.S. Mail and email):

Marshall S. Weaver, Esquire, Weaver Law Firm, LLC



1330 Lady Street, Sixth Floor (29201) Post Office Box 12487 | Columbia, SC 29211

The Honorable Jenny A. Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

1833-125

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