

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
In The Circuit Court

William A. McKinnon, Circuit Court Judge

Appellate Case No. 2019-001061

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Jul 23 2020

S.C. SUPREME COURT

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Jul 23 2020

SC Court of Appeals

James Stephen Nivens and Carolyn Nivens.....Appellant

v.

JB & E Heating & Cooling, Inc.....Respondent.

MOTION TO ALLOW SERVING THE RESPONDENT’S INITIAL BRIEF AND
DESIGNATION OF MATTER OUTSIDE OF DEADLINES

The Respondent, through its undersigned attorney moves the court to allow the filing of the Respondent’s Initial Brief and Designation of Matter outside of the filing deadline set by Rules 208 and 209 of the S.C.A.C.R. The grounds for this motion are as follows:

This Appeal was previously dismissed. The Appellant filed for the right to file outside time or to recall remittitur.

The court construed the motion as a Petition to Reinstate and granted the Petition to Reinstate on May 1, 2020. Although the Order notes that the Respondent’s Counsel was provided a “courtesy copy” (cc:) on the Order, the Respondent’s attorney can find no record of having received the Order prior to receiving the letter from the Clerk dated July 16, 2020. If the Order was received by the Respondent Attorney’s office, it was apparently inadvertently misplaced. If the Respondent’s Attorney had known the Appellant’s Petition to Reinstate was granted the Respondent’s Attorney timely have already filed the Respondent’s Initial Brief and Designation of Matter.

The Respondent is attaching to this Motion the Respondent’s Initial Brief and Designation of Matter.

THEREFORE, the Respondent request that the Court allow the Respondent to file the Respondent's Initial Brief and Designation of Matter outside of the filing deadline set by Rules 208 and 209 of the S.C.A.C.R.

s/James W. Boyd (SC Bar# 824)
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Rock Hill, SC 29732
(803) 328-2600 Phone
Attorney for Respondent

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PROOF OF SERVICE

I, certify that I served the Respondent's Motion To Allow Serving The Respondent's Initial Brief and Designation of Matter Outside of Deadline by depositing a copies of the same in the United States mail, postage prepaid, on July 23, 2020, addressed to its attorney, Mr. John Martin Foster, PO Box 106, Rock Hill, SC 29731-6106.

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July 23, 2020