

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Appellate Case No.: 2020-000320

Associated Receivables Funding, Inc.....Respondent,

v.

Dunlap, Inc.; James Stephen Dunlap, an Individual; Dunlap Industrial Coating Services, Inc.;
Dunlap Industrial Services, Inc.; Classic Industrial Services, Inc.; and Mark Beuerle, an
Individual,..... Defendants,

Of Which, Classic Industrial Services, Inc., is.....Appellant.

**PETITION FOR THE IMPOSITION OF SUPERSEDEAS BOND
OR, IN THE ALTERNATIVE, LIFT OF STAY**

COMES NOW, the Respondent Associated Receivables Funding, Inc. (“Respondent”),
pursuant to Rule 241(d)(7), SCACR, and hereby requests that the court either order that Appellant
Classic Industrial Services, Inc. give a supersedeas bond to affect the stay of Respondent’s
proceedings to enforce its judgment against Appellant or, in the alternative, order that the stay of
execution be lifted.

BACKGROUND

On or about January 31, 2020, Respondent obtained a judgment against Appellant in the
amount of Three Hundred Twenty-Three Thousand, Seven Hundred Eighteen and 31/100ths
Dollars (\$323,718.31). On or about February 21, 2020 Appellant properly filed its Notice of
Appeal and commenced this pending action. On or about March 3, 2020, the Honorable Alex

Kinlaw, Jr. Ordered that Respondent could levy on a certain account held by Appellant. A true and correct copy of Judge Kinlaw's March 3, 2020 Order is attached hereto as "**Exhibit A**". That same day, Appellant filed a Motion to Stay the Execution of Judgment. A true and correct copy of Appellant's March 3, 2020 Motion is attached hereto as "**Exhibit B**".

On or about March 5, 2020, the Honorable Alex Kinlaw, Jr. Ordered that Respondent's execution of judgment be stay, but did not require that Appellant give a supersedeas bond. A true and correct copy of Judge Kinlaw's March 5, 2020 Order is attached hereto as "**Exhibit C**". On or about March 9, 2020, Respondent filed a Motion to Alter of Amend seeking the lower court impose a supersedeas bond in accordance with Rule 62(d) SCRPC. A true and correct copy of Respondent's March 9, 2020 Motion is attached hereto as "**Exhibit D**". On or about November 9, 2020, the Honorable Alex Kinlaw, Jr. denied Respondent's motion to impose a supersedeas bond. A true and correct copy of Judge Kinlaw's November 9, 2020 Order is attached hereto as "**Exhibit E**".

GROUND FOR PETITION

Rule 62(d) of the South Carolina Rules of Civil Procedure requires Appellant to give a supersedeas bond for the stay issued by the Honorable Alex Kinlaw, Jr., who was not the presiding judge of the lower court trial from which this appeal was taken, to be effective. *See Rule 62(d)*, SCRPC. Despite this requirement under Rule 62(d), SCRPC, no bond has been required or given. *See Exhibit E: November 9, 2020 Order of the Honorable Alex Kinlaw, Jr.*

Respondent, aggrieved by the decision of the lower court to not require the posting of a supersedeas bond, now petitions this Court for a review of that decision in accordance with Rule 241(d)(7), SCACR and seeks for the Court to condition the stay of Respondent's proceedings to enforce its judgment against Appellant on the filing of a bond by Appellant in an amount the Court

deems appropriate in accordance with Rule 241(c)(3), SCACR. Further, as Appellant is an out of state corporation, Respondent would respectfully ask that the supersedeas bond be set at the amount of the judgment, Three Hundred Twenty-Three Thousand, Seven Hundred Eighteen and 31/100ths Dollars (\$323,718.31).

In the alternative, Respondent seeks a review of the lower court's November 9, 2020 decision and a determination that the stay be lifted for its failure to require that a supersedeas bond be given.

CONCLUSION

For the foregoing reasons, Plaintiff would respectfully request that the Court require a supersedeas bond be given and that the amount of the supersedeas bond be set at the judgment amount of Three Hundred Twenty-Three Thousand, Seven Hundred Eighteen and 31/100ths Dollars (\$323,718.31) or, in the alternative, that the stay of execution be lifted.

Respectfully submitted,



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Greenville, South Carolina