



CLEMENT RIVERS, LLP

ATTORNEYS AT LAW

Russell G. Hines
Partner

Direct Dial: (843) 720-5488
Direct Fax: (843) 579-1327
E-mail: RHines@yctrlaw.com

October 7, 2021

VIA EMAIL ONLY

Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211
ctappfilings@sccourts.org

RECEIVED

Oct 07 2021

SC Court of Appeals

Re: K.A. Diehl and Associates, Inc. v. James Perkins
Appellate Case No.: 2018-002009
Case No.: 2015-CP-26-05573
Claim No.: 916718
YCR File: 14168-20180194

Dear Ms. Kitchings:

As the Court, of course, knows, the only two parties to the above-referenced appeal are our firm's client Appellant, Mark Dos Santos, and Respondent, K.A. Diehl and Associates, Inc., represented by attorneys Alicia Thompson and Henrietta Golding of Burr & Forman, LLP, and presently, pursuant to the Court's order of October 5, 2021, the appeal is being held in abeyance through today, October 7, 2021, to allow the parties to explore the possibility of resolving the matter by agreement.

Please allow me to preface this update about the status of the settlement effort with some brief background. This appeal has been held in abeyance since July 12, 2021, when the Court granted the parties' Consent Motion to Hold Appeal in Abeyance to Allow Parties Time to Pursue Potential Resolution, filed July 6, 2021. Not long before this Mr. Dos Santos and K.A. Diehl (along with others who are not parties to the instant matter) had been able to agree upon a resolution of Mr. Dos Santos's appeals in the consolidated appeal identified as Appellate Case No. 2018-000041, which was dismissed on the joint motion of all parties thereto on June 24, 2021, with the remittitur sent down on July 12, 2021.

Having successfully resolved Appellate Case No. 2018-000041, Mr. Dos Santos and K.A. Diehl were—and still are—interested in trying to resolve the instant matter too, but for a variety of reasons, the instant matter is more complicated and harder to resolve. Accordingly, as was the case when I last wrote the Court on September 27, 2021, so far the parties have not been able to duplicate their success in resolving Appellate Case No. 2018-000041 in the instant matter.

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That said, after consultation with K.A. Diehl's counsel Ms. Thompson, I can confirm that, if the Court will allow it, the parties would like to continue to explore the potential for settlement with the appeal held in abeyance. Indeed, as I have advised Ms. Thompson, Mr. Dos Santos is in the process of finalizing a written proposal he expects to convey to K.A. Diehl for its consideration in the near term. As I have also advised Ms. Thompson, I believe the nature of the proposal is such that, if it piques K.A. Diehl's interest, K.A. Diehl will likely need some time to thoughtfully respond and, in turn, Mr. Dos Santos will likely need some time to thoughtfully reply, while, on the other hand, if K.A. Diehl is not interested, it should be able to convey that response to Mr. Dos Santos very quickly.

Accordingly, the parties ask that the Court continue to hold the appeal in abeyance for another thirty (30) days subject to assurances (1) that, within ten (10) days of today's date, i.e., no later than Monday, October 18, 2021, Mr. Dos Santos's counsel will either (a) convey Mr. Dos Santos's proposal to K.A. Diehl's counsel or (b) advise the Court that the case can be restored to the active roster and (2) that, provided Mr. Dos Santos's proposal is timely conveyed to K.A. Diehl's counsel, if the proposal is a nonstarter for K.A. Diehl, its counsel will promptly communicate the same to Mr. Dos Santos's counsel, who will promptly advise the Court that the case can be restored to the active roster.

Out of an abundance of caution, to be clear, Mr. Dos Santos does *not* want his appeal to be dismissed. The impetus for the appeal being held in abeyance was the parties' mutual interest in exploring the potential for settlement. He certainly does not want this to end up compromising his appellate rights. If the Court is not inclined to continue to hold the appeal in abeyance as requested herein, Mr. Dos Santos most respectfully asks it to please restore the appeal to active status and decide the matter in due course.

Of course, if the Court has any questions or concerns or needs anything further to consider this request (to include a formal motion), please just let me know, and I will gladly provide the same.

With kindest regards, I am

Sincerely,

CLEMENT RIVERS, LLP

s/Russell G. Hines

Russell G. Hines

RGH/rgH

cc: Alicia E. Thompson, Esquire, Burr & Forman, LLP (email only: athompson@burr.com)
Henrietta U. Golding, Esquire, Burr & Forman, LLP (email only: hgolding@burr.com)