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Feb 01 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Case No.: 2021-001400

IOS, LLC.,

Appellant-Respondent,

v.

Lander University,

Respondent-Appellant.

MOTION TO DISMISS CROSS-APPEAL

Appellant-Respondent files this Motion to Dismiss the Cross-Appeal of Respondent-Appellant pursuant to Rules 203, 240 and 260 SCACR for failure to timely file the Notice of Appeal with the clerk of the lower court.

The notice of appeal must be filed with the clerk of the appellate court and the clerk of the lower court within ten (10) days after the notice of appeal is served. Rule 203(d) SCACR [Emphasis Added]. If the notice is not timely filed, the appeal shall be dismissed. Rule 203(d)(3) SCACR. Respondent-Appellant served their Notice of Appeal on December 7, 2021 and filed the same in the Court of Appeals on the same date. (See Exhibit A Court of Appeals filing of Respondent-Appellant's Notice of Appeal.) Respondent-Appellant filed their Notice of Appeal in the lower court on January 25, 2022. (See Exhibit B Circuit Court filing of Respondent-

Appellant’s Notice of Appeal.) Respondent-Appellant’s filing of the notice in the lower court is not timely. Pursuant to Rule 260 SCACR when it appears that an appellant 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. If notice is not timely filed, the appeal shall be dismissed. *See Douglas v. State*, 332 S.C. 67, 504 S.E.2d 307 (1998).

Appellant-Respondent respectfully request the Court of Appeals to dismiss the Cross-Appeal filed by Respondent-Appellant for failing to perfect their appeal by timely filing their notice with the clerk of the lower court. Appellant-Respondent further respectfully request that the time to file Appellant-Respondent’s Initial Brief be stayed and extended pursuant to Rule 240(b) SCACR.

February 1, 2022

s-James E. Smith, Jr.

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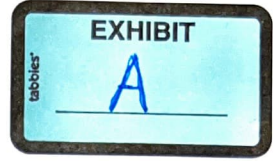
Other Counsel of Record:

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Dec 07 2021

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IOS, LLC Appellant-Respondent

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Lander University Respondent-Appellant

NOTICE OF APPEAL

Lander University appeals the order of the Honorable Frank R. Addy, Jr. dated November 2, 2021. Respondent-Appellant received a notice of appeal from Appellant-Respondent on December 3, 2021.

December 7, 2021

s/Lena Y. Meredith

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PROOF OF SERVICE

I certify that I have served the Notice Appeal on Appellant-Respondent, IOS, LLC, by AIS and U.S. Mail by filing same with the Attorney Information System and depositing a copy of it in the United States Mail, postage prepaid, on December 7, 2021, addressed to Appellant-Respondent's attorney of record:

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December 7, 2021

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CERTIFICATE OF SERVICE

The undersigned attorney of James E. Smith Jr., P.A., counsel for the Appellant-Respondent IOS, LLC., does hereby certify that service of the **Motion to Dismiss Cross-Appeal** in the above-captioned matter was made upon all counsel of record via email and first class us mail at the listed addresses below the 1st day of February 2022.

Lena Y. Meredith
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Attorney for Respondent-Appellant

s-James E. Smith, Jr.

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