

IN THE SUPREME COURT OF OHIO

LAW OFFICES OF  
JACK A. DONENFELD, A LEGAL  
PROFESSIONAL ASSN.,

*Plaintiff/Appellee,*

v.

MARTHA A. McADAM,

*Defendant/Appellant.*

:  
: On appeal from the Hamilton County  
: Court of Appeals, First Appellate District  
: Appeal No. C-070641  
:

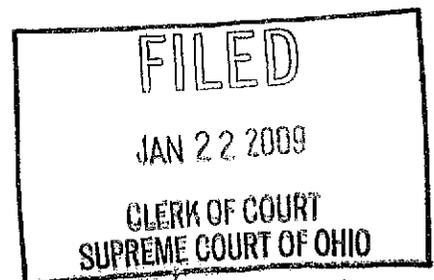
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: ***APPELLANT MARTHA A. MCADAM'S***  
: ***RESPONSE OPPOSING APPELLEE'S***  
: ***MOTION TO STRIKE NOTICE OF***  
: ***APPEAL AND MEMORANDUM IN***  
: ***SUPPORT OF JURISDICTION***  
:

Appellant Martha A. McAdam opposes the Appellee's Motion to Strike Notice of Appeal and Memorandum in Support of Jurisdiction because the Notice and Memorandum were properly filed and served on November 3, 2008. The Appellant doesn't object to the Appellee's request for additional time to respond to the Memorandum.

***Facts***

On November 3, 2008, Martha A. McAdam filed a timely Notice of Appeal from a decision of the First District Court of Appeals in *Law Offices of Jack A. Donenfeld, A Legal Professional Association v. Martha A. McAdam*, Case No. C-070641. She also filed a Memorandum in Support of Jurisdiction.

Both documents contained a Certificate of Service verifying that the documents were mailed to Kenneth G. Hawley, Esq., attorney for Appellee Law Offices of Jack A. Donenfeld, LPA. The documents were in fact deposited in the United States mail for delivery to Mr. Hawley. Mr. Hawley now asserts that he didn't receive the service copies.



## *Discussion*

This Court's rules require that an Appellant serve a Notice of Appeal and jurisdictional memorandum on the Appellee's counsel of record. *S. Ct. Rule XIV 2(A)(1)* Service may be made by ordinary mail, *S. Ct. Rule XIV 2(B)(1)*, evidenced by a certificate of service. *S. Ct. Rule XIV 2(C)* If a party neglects to serve a document, the Court may elect to strike the document or, in the interest of justice, extend the deadline for a response. *S. Ct. Rule XIV 2(D)(2)*.

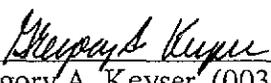
In this case, Appellant's counsel served a Notice of Appeal and jurisdictional memorandum by United States mail addressed to the Appellee's counsel of record, Kenneth Hawley. The mailing was certified as required by the rules. The documents were not returned to Appellant's counsel. These actions complied with the Court's service requirements, so the documents shouldn't be stricken.

The rules don't provide for an extension of time if service requirements are met. However, the Appellant recognizes that interests of justice are served by permitting time for the Appellee's response to the jurisdictional memorandum.

## **CONCLUSION**

Accordingly, this Court should not strike the Notice of Appeal or Memorandum Supporting Jurisdiction that were filed and served. However, it should extend time for the Appellee to file any memorandum opposing jurisdiction.

Respectfully submitted,

  
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***CERTIFICATE OF SERVICE***

I certify that a copy of the foregoing was mailed by ordinary U.S. Mail to Kenneth G. Hawley, Esq., 810 Sycamore Street, 5<sup>th</sup> Floor, Cincinnati, Ohio 45202 on January 21, 2009.

A handwritten signature in cursive script, appearing to read "Gregory A. King", is written above a horizontal line.

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