

ORIGINAL

IN THE SUPREME COURT OF OHIO

GERALD PRICE

Appellant,

v.

CARTER LUMBER CO., et al.

Appellees.

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**On Appeal from the Summit County
Court of Appeals, Ninth Appellate
District
Court of Appeals Case No. 24991**

**OHIO SUPREME COURT
CASE NO. 2010-1852**

**APPELLEES', CARTER LUMBER COMPANY AND JAMES COLLINS,
MOTION TO WITHDRAW APPELLEES' MOTION TO DIMISS APPEAL DUE TO
UNTIMLINESS**

Attorneys for Appellant, Gerald Price

Edward Gilbert (#14544)
Tracee Hilton-Rorar (#0082431)
I Cascade Plaza, Ste. 825
Akron, Ohio 44308
(330) 376-8855
(330) 376-8857 - Fax

**Attorney for Appellees,
Carter Lumber Co. and James Collins**

Thomas F. Haskins, Jr. (#005532)
430 White Pond Dr., Ste. 200
Akron, Ohio 44320

(330) 762-0511
(330) 836-0210 - Fax

Michele Morris (#0032688)
430 White Pond Drive, Ste. 500
Akron, Ohio 44320

(330) 253-6603
(330) 836-0210 - Fax

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GERALD PRICE

Appellant,

-vs-

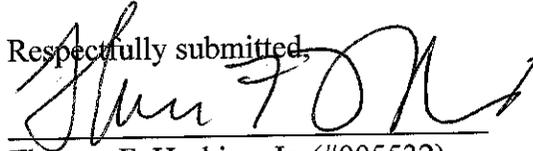
CARTER LUMBER, ET AL.

Appellees.

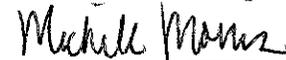
) CASE NO.: 2010-1852
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) APPELLEES'
) MOTION TO WITHDRAW MOTION
) TO DISMISS
) (Lack of Subject Matter Jurisdiction)
)
)

The Appellees, Carter Lumber Company, Inc., and James Collins, respectfully move this Court for an order allowing them to withdraw their motion to dismiss the instant appeal erroneously based on the grounds that this Court lacks subject matter jurisdiction in that the appeal is untimely. The Appellees erred in calculating the time in which to appeal, and respectfully request that their motion to dismiss be withdrawn.

Respectfully submitted,



Thomas F. Haskins, Jr. (#005532)
430 WHITE POND DRIVE, Suite 200
Akron, Ohio 44320
(330) 762-5011/(330) 836-0210 (fax)



Michele Morris (#0032688)
430 WHITE POND DRIVE, Suite 500
Akron, Ohio 44320
(330) 253-6603/(330) 836-0210 (fax)

*Attorneys for Appellees, Carter Lumber
Company and James Collins*

CERTIFICATE OF SERVICE

A copy of the foregoing Motion to Withdraw Appellees' Motion to Dismiss was served via regular U.S. mail, postage prepaid, this 9th day of November, 2010, on Edward L. Gilbert and Tracee Hilton-Rorar, Attorney for Appellant, 1 Cascade Plaza, Suite 825, Akron, OH 44308.

A handwritten signature in black ink, appearing to read "Thomas F. Haskins, Jr.", written over a horizontal line.

Thomas F. Haskins, Jr.