

North Carolina Court of Appeals

Docket Sheet

Dep't of Transp. v. Carolina Mall, LLC

Case Number: 18-784
As of: 04/30/2024
Case Closed: No **Close Date:** **Case Type:** Civil (Tort, Contract, Real Property) **Mediation:** No

DEPARTMENT OF TRANSPORTATION,
 Plaintiff,

v.

CAROLINA MALL, LLC and
 WELLS FARGO BANK, NATIONAL
 ASSOCIATION,
 Defendants.

Docket Date: 08-01-2018 **File Date:** 08-01-2018 **File Time:** 09:35 **Acquired Date:** 08-01-2018
Bond Collected: Yes **Docket Fee:** Yes **Pauper:** No Print Deposit: No **State Appeals:** No

History

Venue: Cabarrus (25) **Heard In:** Superior Court
To SC: **From SC:**

Lower Court Number(s)

Location: Cabarrus (25)
Judge: Kevin M. Bridges
Case #: 15CVS3287

Tracking/Argue

Opinion

Documents

Document	Date Recvd	Cert of Service	Rec/Brf Due	Resp. Due	Resp. Recvd	Mailed Out	Ruling	Ruling Date
(1) RECORD	08-01-2018	07-30-2018				08-02-2018		
(2) SUPERSEDED EXHIBIT RULE 9(D)(2)	08-01-2018							
(3) M-EXT-BR	08-30-2018	08-30-2018					Allowed	08-31-2018
(4) APPELLANT BRIEF	10-03-2018					10-04-2018		
(5) INFORM SHT	10-03-2018							
(6) M-EXT-BR	10-29-2018	10-29-2018					Allowed	10-30-2018

(7) M-EXT-BR	10-30-2018	10-30-2018					Allowed	11-01-2018
(8) M-GEN	11-05-2018	11-05-2018					Allowed	11-07-2018
(9) OTHER	11-05-2018							
(10) NOTICE OF APPEARANCE	08-06-2019	08-06-2019						
(11) OTHER	08-06-2019							
(12) M-GEN	09-20-2019	09-20-2019		10-03-2019			Allowed	10-03-2019
(13) NOTICE OF APPEARANCE	01-27-2020							
(14) OTHER	01-30-2020							
(15) NOTICE OF APPEARANCE	07-29-2020							
(16) OTHER	08-06-2020	08-06-2020						
(17) COURT ORDER	01-25-2021						Other	01-25-2021
(18) OTHER	01-25-2021	01-25-2021						
(19) NOTICE OF APPEARANCE	02-01-2021							
(20) COURT ORDER	07-29-2021						Other	07-29-2021
(21) NOTICE OF APPEARANCE	08-02-2021	08-02-2021						
(22) NOTICE OF APPEARANCE	08-03-2021	08-03-2021						
(23) OTHER	10-21-2021							
(24) COURT ORDER	03-01-2022	03-01-2022						
(25) NOTICE OF APPEARANCE	03-04-2022							
(26) OTHER	03-07-2022	03-07-2022						
(27) NOTICE OF APPEARANCE	05-18-2022	05-18-2022						
(28) COURT ORDER	01-26-2023						Special Order	01-26-2023
(29) NOTICE OF APPEARANCE	01-31-2023	01-31-2023						
(30) OTHER	02-01-2023							
(31) COURT ORDER	07-21-2023						Special Order	07-21-2023
(32) OTHER	07-24-2023							
(33) OTHER	07-31-2023							
(34) COURT ORDER	01-29-2024				01-29-2024		Special Order	01-29-2024
(35) OTHER	01-31-2024							

1 - RECORD

Filed: 08-01-2018 @ 09:35:00

FOR: Appellant Sears Holding Corporation, et al

BY : Mr. Thomas L. Odom, Jr.

THE ODOM FIRM, PLLC

2 - RECORD SUPERSEDED EXHIBIT RULE 9(D)(2)

Filed: 08-01-2018 @ 12:53:37

FOR: Appellant Sears Holding Corporation, et al

BY : Mr. Thomas L. Odom, Jr.

THE ODOM FIRM, PLLC

3 - M-EXT-BR (Allowed) - 08-31-2018
Filed: 08-30-2018 @ 10:51:50
FOR: Appellant Sears Holding Corporation, et al
BY : Mr. Thomas L. Odom, Jr.
THE ODOM FIRM, PLLC

The following order was entered:

The motion filed in this cause on the 30th of August 2018 and designated 'Sears/Intervenor-Appellant's Motion for Extension of Time to File Brief' is allowed. Sears/Intervenor-Appellant's brief shall be filed on or before 4 October 2018.

By order of the Court this the 31st of August 2018.

4 - APPELLANT BRIEF
Filed: 10-03-2018 @ 16:52:54
FOR: Appellant Sears Holding Corporation, et al
BY : Mr. Thomas L. Odom, Jr.
THE ODOM FIRM, PLLC

5 - AIS INFORM SHT
Filed: 10-03-2018 @ 16:59:26
FOR: Appellant Sears Holding Corporation, et al
BY : Mr. Thomas L. Odom, Jr.
THE ODOM FIRM, PLLC

6 - M-EXT-BR (Allowed) - 10-30-2018
Filed: 10-29-2018 @ 16:33:46
FOR: Defendant-Appellee Carolina Mall, LLC
BY : Mr. Kerry Link Traynum
ALEXANDER RICKS, PLLC

The following order was entered:

The motion filed in this cause on the 29th of October 2018 and designated 'Carolina Mall, LLC's Motion for Extension of Time to File Defendant/Appellee's Brief' is allowed. Defendant/Appellee Carolina Mall, LLC's brief shall be filed on or before 5 December 2018.

By order of the Court this the 30th of October 2018.

7 - M-EXT-BR (Allowed) - 11-01-2018
Filed: 10-30-2018 @ 15:44:25
FOR: Plaintiff-Appellee Department of Transportation
BY : Ms. Elizabeth N. Strickland
N.C. DEPARTMENT OF JUSTICE

The following order was entered:

The motion filed in this cause on the 30th of October 2018 and designated 'Department of Transportation's Motion for Extension of Time to File Plaintiff/Appellee's Brief' is allowed as follows: Plaintiff/Appellee's brief shall be filed on or before 19 December 2018.

By order of the Court this the 1st of November 2018.

8 - MOTION MOTION TO HAVE THE NORTH CAROLINA COURT OF APPEAL'S RECOGNIZE THE AUTOMATIC STAY IN SEARS HOLDINGS CORPORATION'S BANKRUPTCY (Allowed) - 11-07-2018
Filed: 11-05-2018 @ 15:42:36
FOR: Appellant Sears Holding Corporation, et al
BY : Mr. Thomas L. Odom, Jr.
THE ODOM FIRM, PLLC

The following order was entered:

The motion filed in this cause on the 5th of November 2018 and designated 'Motion to Have the North Carolina Court of appeal's Recognize the Automatic Stay in Sears Holdings Corporation's Bankruptcy' is decided as follows: All further proceedings in this Court are stayed pending resolution of the action in the U.S. Bankruptcy Court for the Southern District of New York (Case 18-23538). The attorneys of record shall notify this Court immediately when the automatic stay prescribed by 11 U.S.C. Section 362 is lifted.

By order of the Court this the 7th of November 2018.

9 - OTHER

Filed: 11-05-2018 @ 15:43:39
FOR: Appellant Sears Holding Corporation, et al
BY : Mr. Thomas L. Odom, Jr.
THE ODOM FIRM, PLLC

10 - NOTICE OF APPEARANCE

Filed: 08-06-2019 @ 11:13:14
FOR: Plaintiff-Appellee Department of Transportation
BY : Mr. Nicholas Walker Yates
N.C. DEPARTMENT OF JUSTICE

11 - OTHER

Filed: 08-06-2019 @ 12:31:13
FOR: Defendant-Appellee Carolina Mall, LLC
BY : Mr. Danny Merlin

12 - MOTION MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR INTERVENOR-APPELLANT SEARS HOLDINGS CORPORATION (Allowed) - 10-03-2019

Filed: 09-20-2019 @ 12:33:49
FOR: Appellant Sears Holding Corporation, et al
BY : Mr. Thomas L. Odom, Jr.
THE ODOM FIRM, PLLC

The following order was entered:

The motion filed in this cause on the 20th of September 2019 and designated 'Motion to Withdraw as Counsel of Record for Intervenor-Appellant Sears Holdings Corporation' is allowed. Thomas L. Odom, Jr., David W. Murray and The Odom Firm, PLLC are permitted to withdraw as counsel of record for Intervenor-Appellant Sears Holdings Corporation.

By order of the Court this the 3rd of October 2019.

13 - NOTICE OF APPEARANCE

Filed: 01-27-2020 @ 16:45:44
FOR: Plaintiff-Appellee Department of Transportation
BY : Mr. Nicholas Walker Yates
N.C. DEPARTMENT OF JUSTICE

14 - OTHER

Filed: 01-30-2020 @ 16:51:57
FOR: Defendant-Appellee Carolina Mall, LLC
BY : Mr. Danny Merlin
ALEXANDER RICKS PLLC

15 - NOTICE OF APPEARANCE

Filed: 07-29-2020 @ 09:48:51
FOR: Plaintiff-Appellee Department of Transportation
BY : Mr. Nicholas Walker Yates
N.C. DEPARTMENT OF JUSTICE

16 - OTHER

Filed: 08-06-2020 @ 14:02:56
FOR: Defendant-Appellee Carolina Mall, LLC
BY : Mr. Ryan P. Hoffman
ALEXANDER RICKS PLLC

17 - CT_ORDER COURT ORDER (Other) - 01-25-2021

Filed: 01-25-2021 @ 11:49:08
FOR:
BY : Hon. Donna Stroud

The following Order was entered:

On 7 November 2018, this Court ordered all proceedings in this matter to be held in abeyance. Counsel of record for the parties shall, within fifteen days of the date of this order, file a notice with this Court either affirming their continued representation of their respective client or providing the name, address and telephone number of counsel currently representing their former client. Counsel for appellant shall also provide a brief update of the status of the bankruptcy proceeding.

18 - OTHER
Filed: 01-25-2021 @ 13:37:07
FOR: Defendant-Appellee Carolina Mall, LLC
BY : Mr. Ryan P. Hoffman
ALEXANDER RICKS PLLC

19 - NOTICE OF APPEARANCE
Filed: 02-01-2021 @ 11:13:04
FOR: Plaintiff-Appellee Department of Transportation
BY : Mr. Nicholas Walker Yates
N.C. DEPARTMENT OF JUSTICE

20 - CT_ORDER COURT ORDER (Other) - 07-29-2021
Filed: 07-29-2021 @ 12:56:02
FOR:
BY : Hon. Donna Stroud

The following order was entered:

On 7 November 2018, this Court ordered all proceedings in this matter to be held in abeyance. Counsel of record for the parties shall, within fifteen days of the date of this order, file a notice with this Court either affirming their continued representation of their respective client or providing the name, address and telephone number of counsel currently representing their former client. Counsel for appellant shall also provide a brief update of the status of the bankruptcy proceeding.

By order of the Court this the 29th of July 2021.

21 - NOTICE OF APPEARANCE
Filed: 08-02-2021 @ 10:00:58
FOR: Plaintiff-Appellee Department of Transportation
BY : Mrs. Kelly A. Moore
N.C. DEPARTMENT OF JUSTICE

22 - NOTICE OF APPEARANCE
Filed: 08-03-2021 @ 13:13:37
FOR: Defendant-Appellee Carolina Mall, LLC
BY : Mr. Ryan P. Hoffman
ALEXANDER RICKS PLLC

23 - OTHER
Filed: 10-21-2021 @ 12:13:00
FOR: Appellant Sears Holding Corporation, et al
BY : Ms. Jacqueline Marcus
WEIL, GOTSHAL & MANGES LLP

24 - CT_ORDER COURT ORDER
Filed: 03-01-2022 @ 09:10:49
FOR:
BY : Hon. Donna Stroud

25 - NOTICE OF APPEARANCE
Filed: 03-04-2022 @ 13:37:56
FOR: Plaintiff-Appellee Department of Transportation
BY : Mrs. Kelly A. Moore
N.C. DEPARTMENT OF JUSTICE

26 - OTHER
Filed: 03-07-2022 @ 15:41:47
FOR: Defendant-Appellee Carolina Mall, LLC
BY : Mr. Ryan P. Hoffman

27 - NOTICE OF APPEARANCE
Filed: 05-18-2022 @ 09:57:41
FOR: Plaintiff-Appellee Department of Transportation
BY : Mr. Dorian Woolaston

28 - CT_ORDER COURT ORDER (Special Order) - 01-26-2023
Filed: 01-26-2023 @ 11:46:35
FOR:
BY : N.C. Court of Appeals

The following order was entered:

On 7 November 2018, this Court ordered all proceedings in this matter to be held in abeyance. Counsel of record for the parties shall, within fifteen days of the date of this order, file a notice with this Court either affirming their continued representation of their respective client or providing the name, address and telephone number of counsel currently representing their former client. Counsel for appellant shall also provide a brief update of the status of the bankruptcy proceeding.

By order of the Court this the 26th of January 2023.

29 - NOTICE OF APPEARANCE
Filed: 01-31-2023 @ 14:53:36
FOR: Plaintiff-Appellee Department of Transportation
BY : Mrs. Kelly A. Moore
NC DEPARTMENT OF JUSTICE

30 - OTHER
Filed: 02-01-2023 @ 13:46:00
FOR: Defendant-Appellee Carolina Mall, LLC
BY : Mr. Ryan P. Hoffman
ALEXANDER RICKS, PLLC

31 - CT_ORDER COURT ORDER (Special Order) - 07-21-2023
Filed: 07-21-2023 @ 11:25:33
FOR:
BY : N.C. Court of Appeals

The following order was entered:

On 7 November 2018, this Court ordered all proceedings in this matter to be held in abeyance. Counsel of record for the parties shall, within fifteen days of the date of this order, file a notice with this Court either affirming their continued representation of their respective client or providing the name, address and telephone number of counsel currently representing their former client. Counsel for appellant shall also provide a brief update of the status of the bankruptcy proceeding.

By order of the Court this the 21st of July 2023.

32 - OTHER
Filed: 07-24-2023 @ 15:15:03
FOR: Defendant-Appellee Carolina Mall, LLC
BY : Mr. Ryan P. Hoffman
ALEXANDER RICKS, PLLC

33 - OTHER
Filed: 07-31-2023 @ 10:59:35
FOR: Plaintiff-Appellee Department of Transportation
BY : Mr. Dorian Woolaston
N.C. DEPARTMENT OF JUSTICE

34 - CT_ORDER COURT ORDER (Special Order) - 01-29-2024
Filed: 01-29-2024 @ 10:21:47
FOR:
BY : N.C. Court of Appeals

The following order was entered:

On 7 November 2018, this Court ordered all proceedings in this matter to be held in abeyance. Counsel of record for the parties shall, within fifteen days of the date of this order, file a notice with this Court either affirming their continued representation of their respective client or providing the name, address and telephone number of counsel currently representing their former client. Counsel for appellant shall also provide a brief update of the status of the bankruptcy proceeding.

By order of the Court this the 29th of January 2024.

RESPONSE TO OTHER
 Filed: 01-29-2024
 BY : Mr. Dorian Woolaston
 N.C. DEPARTMENT OF JUSTICE

35 - OTHER
 Filed: 01-31-2024 @ 10:09:28
 FOR: Defendant-Appellee Carolina Mall, LLC
 BY : Mr. Ryan P. Hoffman
 ALEXANDER RICKS, PLLC

Financial Information

Receipts

Date Charged	Charge Type	Amount Charged	Amount Paid	Document	Pages	Receipt #	Date Paid
08-01-2018	Docket Fee	10.00	10.00			R082001018	08-01-2018
08-01-2018	Bond	250.00	250.00			R082001018	08-01-2018
08-02-2018	Printing	113.75	113.75	RECORD	65	R082005118	08-08-2018
10-04-2018	Printing	59.50	59.50	APPELLANT BRIEF	34	R102011718	10-12-2018

Exhibits

Transcript(s) Electronically Filed

transcript-dot-vs.carolina-mall-and-walls-fargo-motions-hearing-january-16-2018.pdf
 transcript-dot-vs.carolina-mall-and-walls-fargo-motions-hearing-january-16-2018-cert-of-delivery1.pdf
 transcript-dot-vs.carolina-mall-and-walls-fargo-motions-hearing-january-16-2018-cert-of-delivery2.pdf

Parties

Party Name	Role
Department of Transportation	Plaintiff-Appellee
Carolina Mall, LLC	Defendant-Appellee
Wells Fargo Bank	Defendant-Appellee
National Association	Defendant-Appellee
Sears Holding Corporation	Intervenor-Appellant
Sears Roebuck and Co. (f/k/a)	Intervenor-Appellant

Attorneys

Attorney for Defendant-Appellee - Carolina Mall, LLC

Mr. Danny Merlin [Primary Attorney]

Attorney at Law

danny@alexanderricks.com

Mr. Ryan P. Hoffman

Attorney at Law

ryan@alexanderricks.com

ALEXANDER RICKS PLLC
1420 E. 7th St., Suite 100
Charlotte, NC 28204
(704) 365-3656

Attorney for Appellant - Sears Holding Corporation, et al

Stacey Leinheiser [Primary Attorney]

Attorney at Law

Mr. Ray C. Schrock [Primary Attorney]

Attorney at Law

Ms. Jacqueline Marcus [Primary Attorney]

Attorney

WEIL, GOTSHAL & MANGES LLP

767 Fifth Avenue
New York, NY 10153
(212) 310-8000

Attorney for -

Mr. Garrett A. Fail [Primary Attorney]

Attorney at Law

Sunny Singh [Primary Attorney]

Attorney at Law

WEIL, GOTSHAL & MANGES LLP

767 Fifth Avenue
New York, NY 10153
(212) 310-8000

Attorney for Plaintiff-Appellee - Department of Transportation

Mrs. Kelly A. Moore [Primary Attorney]

Assistant Attorney General

KMoore@ncdoj.gov

Mr. Dorian Woolaston [Primary Attorney]

Assistant Attorney General

dwoolaston@ncdoj.gov

N.C. DEPARTMENT OF JUSTICE

Transportation Section
1505 Mail Service Center
Raleigh, NC 27699
