

North Carolina Court of Appeals

Docket Sheet

Madison Asphalt, LLC v. Madison Cty.

Case Number: 21-115

As of: 04/25/2024

Case Closed: Yes

Close Date: 11-22-2021

Case Type: Civil (Tort, Contract, Real Property)

Mediation: No

MADISON ASPHALT, LLC,
Petitioner,

v.

MADISON COUNTY, a North
Carolina County and Body
Politic, EDWARD FELDMANN,
LISA LONG FELDMANN, TIMOTHY
J. RUEMLER, BILLY JEAN
HAYNIE, LINDA PAYNE, RONNIE
PAYNE, DOUGLAS J. BRUGGEMAN,
EMILY SONTAG, JAMES TIBBETTS,
VIVIAN R. LONG, CONNIE M.
MOLLAND, and EARL ANDREW
CARLSON,

Respondents.

Docket Date: 02-25-2021

File Date: 02-15-2021

File Time: 03:20

Acquired Date: 02-15-2021

Bond Collected: Yes

Docket Fee: Yes

Pauper: No

Print Deposit: No

State Appeals: -

History

Venue: Madison (35)

Heard In: Superior Court

To SC:

From SC:

Lower Court Number(s)

Location: Madison (35)

Judge: Gary M. Gavenus

Case #: 19CVS340

Tracking/Argue

Argue Date: 08-11-2021 (No oral argument by Rule 30(f))

Opinion

Opinion Date: 11-02-2021

Cert Date: 11-22-2021

Author: Honorable Jeff Carpenter

Decision: Dismissed

Opinion Notes:

Opinion Pages: 11

Opinion Cost: \$ 2.20

Cite:

Slip Opinion: <https://appellate.nccourts.org/opinions/?c=2&pdf=40468>**Documents**

Document	Date Recvd	Cert of Service	Rec/Brt Due	Resp. Due	Resp. Recvd	Mailed Out	Ruling	Ruling Date
(1) RECORD	02-15-2021	02-15-2021				02-25-2021		
(2) SUPPLEMENT	02-16-2021							
(3) APPELLANT BRIEF	03-08-2021					03-10-2021		
(4) MEDIATION LETTER	03-08-2021	03-08-2021						
(5) M-EXT-BR	03-17-2021	03-17-2021					Allowed	03-18-2021
(6) M-EXT-BR	03-25-2021	03-25-2021					Allowed	03-25-2021
(7) M-EXT-BR	05-04-2021	05-04-2021					Allowed	05-04-2021
(8) M-DSSAPP	05-07-2021	05-07-2021		05-20-2021	05-17-2021		Allowed	11-02-2021
(9) SUPPLEMENT	05-07-2021							
(10) M-GEN	05-11-2021	05-11-2021					Allowed	05-11-2021
(11) APPELLEE BRIEF	05-11-2021	05-11-2021				05-12-2021		
(12) M-DSSAPP	05-14-2021	05-14-2021		06-07-2021			Special Order	11-02-2021
(13) APPELLEE BRIEF	05-14-2021	05-14-2021				05-17-2021		
(14) M-GEN	05-17-2021	05-17-2021					Allowed	06-02-2021
(15) M-EXT-BR	05-19-2021	05-19-2021					Allowed	05-20-2021
(16) REPLY	05-21-2021	05-21-2021				05-25-2021		
(17) AMENDED	06-02-2021	05-17-2021						
(18) PWC	06-07-2021	06-07-2021		06-23-2021	see below		Denied	11-02-2021
(19) RESPONSE	06-07-2021	06-07-2021						
(20) REPLY	06-07-2021	06-06-2021				06-08-2021		
(21) ADD-AUTH	08-09-2021	08-09-2021						

1 - RECORD

Filed: 02-15-2021 @ 15:20:18

FOR: Appellant Tibbetts, Jim, et al

BY : Mr. James W. Kilbourne, Jr.

ALLEN STAHL & KILBOURNE

2 - RECORD SUPPLEMENT

Filed: 02-16-2021 @ 11:23:31

FOR: Appellant Tibbetts, Jim, et al

BY : Mr. James W. Kilbourne, Jr.

ALLEN STAHL & KILBOURNE

3 - APPELLANT BRIEF

Filed: 03-08-2021 @ 19:01:16

FOR: Appellant Tibbetts, Jim, et al

BY : Mr. James W. Kilbourne, Jr.

ALLEN STAHL & KILBOURNE

4 - CORRESPONDENCE MEDIATION LETTER

Filed: 03-08-2021 @ 19:26:22

FOR: Appellant Tibbetts, Jim, et al

BY : Mr. James W. Kilbourne, Jr.

ALLEN STAHL & KILBOURNE

5 - M-EXT-BR (Allowed) - 03-18-2021
Filed: 03-17-2021 @ 16:31:59
FOR: Petitioner-Appellee Madison Asphalt, LLC
BY : Mr. Craig D. Justus
THE VAN WINKLE LAW FIRM

The following order was entered:

The motion filed in this cause on the 17th of March 2021 and designated 'Motion for Extension of Time to File Plaintiff-Appellee's Brief' is allowed. Plaintiff-Appellee's brief shall be filed on or before 7 May 2021.

By order of the Court this the 18th of March 2021.

6 - M-EXT-BR (Allowed) - 03-25-2021
Filed: 03-25-2021 @ 10:39:50
FOR: Respondent-Appellee Madison County
BY : Ms. Ann-Patton Hornthal
ROBERTS & STEVENS, PA

The following order was entered:

The motion filed in this cause on the 25th of March 2021 and designated 'Motion for Extension of Time to File Respondent-Appellee's Brief' is allowed. Respondent-Appellee Madison County's brief shall be filed on or before 7 May 2021.

By order of the Court this the 25th of March 2021.

7 - M-EXT-BR (Allowed) - 05-04-2021
Filed: 05-04-2021 @ 09:48:29
FOR: Petitioner-Appellee Madison Asphalt, LLC
BY : Mr. Craig D. Justus
THE VAN WINKLE LAW FIRM

The following order was entered:

The motion filed in this cause on the 4th of May 2021 and designated 'Second Motion for Extension of Time to File Petitioner-Appellee's Brief' is allowed. Petitioner-Appellee's brief shall be filed on or before 14 May 2021.

By order of the Court this the 4th of May 2021.

8 - M-DSSAPP (Allowed) - 11-02-2021
Filed: 05-07-2021 @ 18:53:49
FOR: Respondent-Appellee Madison County
BY : Ms. Ann-Patton Hornthal
ROBERTS & STEVENS, PA

The following order was entered:

The motion filed in this cause on the 7th of May 2021 and designated 'Appellee Madison County's Motion to Dismiss Appeal' is allowed per opinion.

By order of the Court this the 2nd of November 2021.

RESPONSE TO M-DSSAPP
Filed: 05-17-2021
BY : Mr. James W. Kilbourne, Jr.
ALLEN STAHL & KILBOURNE

9 - RECORD SUPPLEMENT
Filed: 05-07-2021 @ 14:49:51
FOR: Respondent-Appellee Madison County
BY : Ms. Ann-Patton Hornthal
ROBERTS & STEVENS, PA

10 - MOTION APPELLEE MADISON COUNTY'S MOTION TO HAVE BRIEF DEEMED TIMELY FILED (Allowed) - 05-11-2021
Filed: 05-11-2021 @ 11:26:33
FOR: Respondent-Appellee Madison County
BY : Ms. Ann-Patton Hornthal
ROBERTS & STEVENS, PA

The following order was entered:

The motion filed in this cause on the 11th of May 2021 and designated 'Appellee Madison County's Motion to Have Brief Deemed Timely Filed' is allowed. Appellee Madison County's brief is deemed timely filed.

By order of the Court this the 11th of May 2021.

11 - APPELLEE BRIEF
Filed: 05-11-2021 @ 11:27:17
FOR: Respondent-Appellee Madison County
BY : Ms. Ann-Patton Hornthal
ROBERTS & STEVENS, PA

12 - M-DSSAPP (Special Order) - 11-02-2021
Filed: 05-14-2021 @ 23:50:07
FOR: Petitioner-Appellee Madison Asphalt, LLC
BY : Mr. Craig D. Justus
THE VAN WINKLE LAW FIRM

The following order was entered:

The motion filed in this cause by Madison Asphalt, LLC on 14 May, 2021 and designated "Petitioner-Appellee's Motion to Dismiss Appeal and For Sanctions" is decided as follows: The motion to dismiss is allowed per opinion. The motion for sanctions is denied.

This the 2nd day of November, 2021.

13 - APPELLEE BRIEF
Filed: 05-14-2021 @ 23:51:07
FOR: Petitioner-Appellee Madison Asphalt, LLC
BY : Mr. Craig D. Justus
THE VAN WINKLE LAW FIRM

14 - MOTION PETITIONER-APPELLEE'S MOTION TO SUBSTITUTE A REVISED PETITIONER-APPELLEE'S BRIEF (Allowed) - 06-02-2021
Filed: 05-17-2021 @ 17:57:50
FOR: Petitioner-Appellee Madison Asphalt, LLC
BY : Mr. Craig D. Justus
THE VAN WINKLE LAW FIRM

The following order was entered:

The motion filed in this cause on the 17th of May 2021 and designated 'Petitioner-Appellee's Motion to Substitute a Revised Petitioner-Appellee's Brief' is allowed. The attached 'Revised Petitioner-Appellee's Brief' that contains minor edits and the complete appendix shall be scanned. The Petitioner-Appellee brief filed 14 May 2021 shall be stricken.

By order of the Court this the 2nd of June 2021.

15 - M-EXT-BR (Allowed) - 05-20-2021
Filed: 05-19-2021 @ 17:03:23
FOR: Appellant Tibbetts, Jim, et al
BY : Mr. James W. Kilbourne, Jr.
ALLEN STAHL & KILBOURNE

The following order was entered:

The motion filed in this cause on the 19th of May 2021 and designated 'Respondent-Appell[ants] Motion for Extension of Time to File Reply Brief and Respond to Motion to Dismiss' is allowed. Respondent-Appellants' reply brief and response to motion to dismiss shall be filed on or before 7 June 2021.

By order of the Court this the 20th of May 2021.

16 - APPELLANT BRIEF REPLY
 Filed: 05-21-2021 @ 19:09:46
 FOR: Appellant Tibbetts, Jim, et al
 BY : Mr. James W. Kilbourne, Jr.
 ALLEN STAHL & KILBOURNE

17 - APPELLEE BRIEF AMENDED
 Filed: 06-02-2021 @ 11:20:28
 FOR: Petitioner-Appellee Madison Asphalt, LLC
 BY : Mr. Craig D. Justus
 THE VAN WINKLE LAW FIRM

18 - PWC (Denied) - 11-02-2021
 Filed: 06-07-2021 @ 20:28:05
 FOR: Appellant Tibbetts, Jim, et al
 BY : Mr. James W. Kilbourne, Jr.
 ALLEN STAHL & KILBOURNE

The following order was entered:

The petition filed in this cause by Respondents-Appellants Jim Tibbetts and Doug Bruggeman on 7 June 2021 and designated "Petition for Writ of Certiorari" is denied per opinion.

By order of the Court this the 2nd of November 2021.

RESPONSE TO PWC
 Filed: 06-17-2021
 BY : Ms. Ann-Patton Hornthal
 ROBERTS & STEVENS, PA

RESPONSE TO PWC
 Filed: 06-17-2021
 BY : Mr. Craig D. Justus
 THE VAN WINKLE LAW FIRM

19 - RESPONSE
 Filed: 06-07-2021 @ 08:01:23
 FOR: Appellant Tibbetts, Jim, et al
 BY : Mr. James W. Kilbourne, Jr.
 ALLEN STAHL & KILBOURNE

20 - APPELLANT BRIEF REPLY
 Filed: 06-07-2021 @ 21:06:45
 FOR: Appellant Tibbetts, Jim, et al
 BY : Mr. James W. Kilbourne, Jr.
 ALLEN STAHL & KILBOURNE

21 - MEMOS ADD-AUTH
 Filed: 08-09-2021 @ 15:13:01
 FOR: Petitioner-Appellee Madison Asphalt, LLC
 BY : Mr. Craig D. Justus
 VAN WINKLE, BUCK, WALL, STARNES & DAVIS, P.A.

Financial Information

Receipts

Date Charged	Charge Type	Amount Charged	Amount Paid	Document	Pages	Receipt #	Date Paid
05-12-2021	Printing	61.25	61.25	APPELLEE BRIEF	35	R052008121	05-18-2021
05-17-2021	Printing	162.75	162.75	APPELLEE BRIEF	93	R052009321	05-19-2021
02-25-2021	Docket Fee	10.00	10.00			R022038621	02-25-2021
02-25-2021	Bond	250.00	250.00			R022038621	02-25-2021
02-25-2021	Printing	3736.25	3736.25	RECORD	2135	R032010021	03-12-2021
03-10-2021	Printing	112.00	112.00	APPELLANT BRIEF	64	R032035221	03-19-2021
05-25-2021	Printing	45.50	45.50	APPELLANT BRIEF	26	R062006721	06-07-2021
06-08-2021	Printing	49.00	49.00	APPELLANT BRIEF	28	R062020021	06-14-2021

Payments

Payment Date	Payment Type	Amount	Check Number
02-14-2022	Disburse	162.75	46353
02-14-2022	Disburse	61.25	46352
02-14-2022	Disburse	17.00	46354

Exhibits**Transcript(s) Electronically Filed**

transcript-madison-asphalt-v-madison-county-et-al-vol-i-of-i-9-2-2020.pdf
transcript-madison-asphalt-v-madison-county-et-al-vol-i-of-i-9-4-2020.pdf
transcript-madison-asphalt-v-madison-county-et-al-cert-of-delivery-9-2-and-9-4-2020.pdf

Parties

Party Name

Role

Madison Asphalt, LLC	Petitioner-Appellee
Madison County	Respondent-Appellee
Feldmann, Edward	Respondent-Appellee
Feldmann, Lisa Long	Respondent-Appellee
Ruemler, Timothy J.	Respondent-Appellee
Haynie, Billy Jean	Respondent-Appellee
Payne, Linda	Respondent-Appellee
Payne, Ronnie	Respondent-Appellee
Bruggeman, Douglas J.	Respondent-Appellant
Sontag, Emily	Respondent-Appellee
Tibbetts, James	Respondent-Appellee
Long, Vivian R.	Respondent-Appellee
Molland, Connie M.	Respondent-Appellee
Carlson, Earl Andrew	Respondent-Appellee
Tibbetts, Jim	Respondent-Appellant
Reda, Adam	Respondent-Appellant

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