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IN THE DISTRICT COURT OF TULSA COUNTY  
STATE OF OKLAHOMA

LARRY SMOOT, CONNIE SMOOT, and )  
C&L RESTORATION SERVICES, LLC, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
B&J RESTORATION SERVICES, INC., )  
a/k/a B&J RESTORATION, INC., HOPPER )  
PROPERTIES, LLC, BRANDON HOPPER, )  
and JULIE HOPPER, )  
 )  
Defendants. )

Case No. CJ-2007-2299  
Hon. Rebecca Nightingale

DISTRICT COURT  
**FILED**

AUG 29 2012

SALLY HOWE SMITH, COURT CLERK  
STATE OF OKLA: TULSA COUNTY

**NOTICE OF FAILURE TO TIMELY  
DELIVER FILED PLEADINGS**

Come now the Defendants, by and through their attorney of record, Mark D. Lyons of Lyons & Clark, Inc., and hereby submits the following Notice of the Plaintiffs' counsel's failure to timely deliver filed pleadings and submitting incorrect and false certificates of service on the pleadings they filed. The failure of the Plaintiffs' counsel, at the first trial in this matter, to timely mail and/or deliver copies of pleadings and in accordance with his certificates of service occurred multiple times, and in addition, would refuse to correct the certificates of service after multiple complaints.<sup>1</sup> This Court and counsel know full well that the timely receipt of pleadings is very important as there are specific statutorily allotted

<sup>1</sup> Attached as Exhibit 1, is just one example of the many inaccurate and untimely mailings that have occurred over time in this matter.

Vertical stamp: SALLY HOWE SMITH, COURT CLERK, STATE OF OKLA: TULSA COUNTY  
Date/Time stamp: AUG 29 2012 11:59  
Handwritten signature/initials.

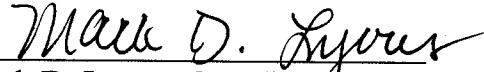
response times that the opposing party can utilize and that the response time is very time sensitive. So this is not a trivial matter to which this notice is addressed.

On August 17, 2012, Larry Smoot, Connie Smoot and C&L Restoration Services, LLC, filed a Motion to Quash Mark Lyons' Subpoena Duces Tecum of Attorney Financial Records. The Certificate of Service certifies the pleading was mailed to Defendant's counsel on August 17. Also filed by Plaintiffs' counsel was Plaintiffs' Brief on Effect of May 16, 2012 Appellate Opinion. That document also had a Certificate of Service certifying the pleading was mailed to Defendant's counsel on August 17, 2012.

Attached hereto as Exhibit 2 is a letter from Sara Weber of Robinett & Murphy, dated August 20, 2012 and addressed to Mark Lyons and Pat Mensching, advising that she is mailing the Plaintiffs' Motion to Quash. Also attached hereto as Exhibit 2 is a copy of the envelope noting the documents were, in fact, mailed on August 21, 2012. The pleadings were received by Defendant's counsel on August 23, 2012.

It has been a constant and persistent problem previously in this case that Plaintiffs' counsel would either refuse to mail pleadings filed, or hold on to them for a few days before mailing them. Response dates to pleadings are obviously time sensitive. In this case, Mr. Corns and Robinett & Murphy held onto the pleadings for at least four days before mailing them. For late mailing of documents to happen once or twice in a case, and maybe with a one day delay, can be explained and certainly no issue would be made of it. However, it is inexcusable to hold onto pleadings for four or five days and make no pretense of complying with the certificate of service. Should this continue in the future, Defendant's counsel will seek all appropriate relief from the Court.

Respectfully submitted,



Mark D. Lyons, OBA#5590

LYONS & CLARK, INC.

616 S. Main, Suite 201

Tulsa, Oklahoma 74119-1260

Telephone:

Facsimile:

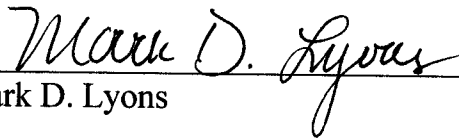
*ATTORNEYS FOR THE DEFENDANTS*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 23rd day of August, 2012, I caused a copy of the above and foregoing instrument to be delivered via U.S. First Class Mail, with proper postage fully prepaid thereon, to the following:

Jasen R. Corns  
P.O. BOX 410  
Jenks, OK 74037

Sara E. Weber  
Robinett & Murphy  
624 S. Boston, Suite 900  
Tulsa, OK 74119



Mark D. Lyons

**EXHIBITS REDACTED**