

## APPELLATE ALERT

12/8/16

### **How the Grinch Stole Christmas? *Hard Lessons from the Federal Eleventh Circuit***

By **[Christopher D. Donovan](#)**, Partner

This week, the Federal Eleventh Circuit stole an unwitting appellant's Christmas in *Parker Auto Body, Inc. v. State Farm Mutual Automobile I*, No. 16-15470 (11th Cir. Dec. 5, 2016).

The appeal began like any other: the appellant sought review from the dismissal of his complex, multi-district case. Despite timely filing his opening brief, the Eleventh Circuit dismissed the appeal because the appellant failed to timely file the appendix. Local rules require appellants to file an appendix containing certain specified documents within *seven* days of filing their opening brief. On the *eighth* day, when nothing was received, the Eleventh Circuit dismissed the appeal.

The appellant immediately filed the appendix and moved to reinstate the appeal. According to the appellant, the clerk's office had stated over the phone that the appendix could be filed at "any time," but not later than 10 to 14 days after the opening brief. The appellee responded by arguing that the clerk's written notice expressly advised that appendices were due within seven days of the brief, as per the local rules. Thus, the appellee claimed that no "extraordinary circumstance" supported reinstatement.

The Eleventh Circuit agreed and denied reinstatement in a one-sentence order.

Suffice it to say, this is a very harsh, draconian ruling that will undoubtedly damper the appellant's (and their attorney's) Christmas spirit. But it also stands as a hard lesson for us all: strictly adhere to the federal filing deadlines.

If you have any questions about this topic, please contact one of the listed Roetzel attorneys. We would like to wish you a Happy Holiday season and great success in the year to come.

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