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Dec 28 2022

THE STATE OF SOUTH CAROLINA
In the Supreme Court

S.C. SUPREME COURT

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas
R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2022-001668

Ex Parte: Donald L. Smith,.....Appellant,

In Re: Greg Battersby,.....Plaintiff,

v.

J. Kirkman Moorhead and Krause, Moorhead
& Draisen, P.A.,.....Respondents.

**MOTION FOR EXTENSION OF TIME TO FILE RETURN
TO PETITION FOR CERTIORARI**

COME NOW the Respondents in the above-captioned matter and move the Court for an extension of time to file their Return to Petitioner’s Petition (and/or Amended Petition) for Certiorari.

Petitioner’s original Petition for Certiorari was electronically filed and served on November 29, 2022 thereby making Respondents’ Return due on December 29, 2022. However, on December 19, 2022 Petitioner filed an Amended Petition for Certiorari. Respondents are now uncertain as to whether a) they are required to respond to the Amended Petition rather than the original Petition; and b) whether the date within which to file their Return runs from the original

filing date or from date the Amended Petition was filed thereby making the Return due on January 18, 2023.

In a thorough review of the Rules of Appellate Practice, counsel found nothing specific in the Rules that allows amendment of the Petition for Certiorari. However, Rule 240 that deals with Motions and Petitions Generally states:

(b) Stay of Time Limits. Unless otherwise provided by these Rules, or ordered by the appellate court, the time limits imposed by these Rules shall not be stayed by the filing of a motion or petition.

As a result, Respondents would like an opportunity to respond to all assertions made by the Petitioner, including those raised in his Amended Petition, and out of an abundance of caution therefore respectfully request an additional fifteen (15) days from the date of this Motion within which to file their Return. Such request is not interposed for purposes of undue delay or for any other improper purpose.

Respectfully submitted,

s/Daniel L. Draisen

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ATTORNEYS FOR THE RESPONDENTS

December 26, 2022

Anderson, South Carolina