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Aug 11 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Letitia H. Verdin, Circuit Judge

Appellate Case Number 2023-000353

Civil Action Number 2018-CP-23-01643

Jason Tuck.....Appellant,

v.

On the Mark Automotive Repair and Refinishing, LLC d/b/a On the Mark Automotive, LLC, Carolina's Best Auto Sales, LLC, Carolina's Best Finance, 828A St. Mark Road, LLC, Affordable Auto Finance, Inc., Southeastern Recovery and Towing, LLC, John D. Watts III (a/k/a John D. Watts), Respondents.

RESPONDENTS' PETITION TO EXTEND TIME TO FILE DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL AND INITIAL BRIEF

Pursuant to South Carolina Appellate Court Rules 240 and 263(b), the Respondents, by and through their undersigned counsel, petition this Honorable Court for an extension of thirty (30) days in which to file and to serve Respondents' Designation of Matter to be Included in the Record on Appeal and Respondents' Initial Brief.

Respondents' counsel received service of the Appellant's Designation of Matter and Initial Brief on June 26, 2023. The Initial Brief is 46 pages long and involves complex issues of law and fact. Respondents counsel is working diligently to respond; however, counsel's existing

trial, discovery, and ADR deadlines and mediation practice make it impractical to complete Respondents' Initial Brief within the allotted time.

On July 25, 2023, the Court granted to Respondents an extension of time in which to file and to serve the Designation of Matter and Initial Brief through August 26, 2023.

In addition to the reasons set forth in the prior request for extension, this extension is necessary due to the Respondents' counsel only receiving the Transcript of Record from the Court Reporter on August 10, 2023, and, more significantly, as a result of counsel's representation of the Defendant in an wrongful death and survival trial in Lexington County set to begin on August 21, 2023 and scheduled to try for four days. The preparation for, and the trial of, the Lexington Action has made completion of the Designation of Matter and Respondents' Initial Brief by August 25, 2023 impracticable.

Respondents respectfully request that the deadline for the filing of Respondents' Designation of Matter to be Included in the Record on Appeal and Respondents' Initial Brief be extended to September 25, 2023.

Respondents' Petition is supported by the affidavit of Respondents' counsel, L. Lee Plumblee, which is filed simultaneously with this petition.

Respectfully submitted,

s/L. Lee Plumblee
L. Lee Plumblee (S.C. Bar No. 10198)
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Attorneys for Respondents

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AFFIDAVIT OF L. LEE PLUMBLEE

Personally appeared before the undersigned L. Lee Plumblee, affiant, who, upon being duly sworn, testifies as follows:

1. I am L. Lee Plumblee and am a member in good standing of the South Carolina Bar;
2. I represent the Respondents On the Mark Automotive Repair and Finishing, LLC d/b/a On the Mark Automotive, LLC, Carolina's Best Auto Sales, LLC, Carolina's Best Automotive, LLC, Carolina's Best Finance, 828A St. Mark Road, LLC, Affordable Auto Finance, Inc., Southeastern Recovery and Towing, LLC, and John D. Watts, III in this matter.
3. This appeal involves complex issues of fact and law. Responding to the Appellant's positions requires review of more than 600 pages of deposition testimony from various witnesses, as well as trial testimony of the Appellant and of Respondent John D. Watts, III.
4. In addition, review of thousands of lines of native data accounting records for at least four of the named Respondents is involved in responding to Appellant's Initial Brief.

5. I received service of the Appellant's Initial Brief on June 26, 2023, shortly before the July 4 holiday week. I began working on the Respondents' Initial Brief that week, but pre-existing obligations in other cases scheduled for trial later this year and previously scheduled mediations, as well as the extent and complexity of the issues raised in Appellant's Initial Brief, prevented me from being able to respond in the time allotted by the Rules.

6. In addition, due to simple oversight, the transcript of record was not provided to our office by the Court Reporter until August 10, 2023.

7. Finally, and most significantly, I represent the Defendant Brian Powers in C.A. No. 2019-CP-32-4477, Rhett Drew Smith, as P.R. of the Estate of Mildred Louise Hoover Smith v. Phillip Coombs Plumbing Co., Inc., Brian Powers, et. al. This case is first up for trial in Lexington County the week of August 21. It is wrongful death and survival action scheduled for a four-day trial. Due to the demands of trial preparation and trial, I would be unable to complete the Respondents' Designation of Matter to be Included in the Record on Appeal and the Respondents' Initial Brief by August 25, 2023, the scheduled deadline for Respondents' filings.

8. I respectfully request that the time for the filing of Respondents' Designation of Matter to be Included in the Record on Appeal, as well as the time for filing Respondents' Initial Brief, be extended through September 25, 2023.

7. I attest that this request is not submitted for purposes of undue delay.

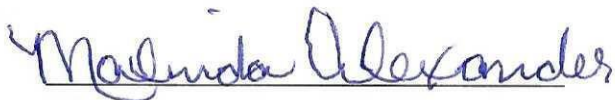
FURTHER, AFFIANT SAYETH NAUGHT.



L. Lee Plumblee

Sworn and Subscribed Before Me

This 17th day of August 2023



Notary Public for South Carolina

My commission expires: 6/3/2024

MALINDA ALEXANDER
Notary Public, State of South Carolina
My Commission Expires 6/3/2024

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Proof of Service

Proof of Service

The Undersigned hereby certifies that on the date indicated below he served counsel for Appellant with a copy of the Respondents' Petition to Extend Time to File Designation of Matter to be Included in the Record on Appeal and Initial Brief and Affidavit of Lee Plumblee by via e-mail to:

Brian P. Murphy: brian@stephensonmurphy.com

Luke A. Burke: LBurke@bannisterwyatt.com

Bruce W. Bannister: BBanister@bannisterwyatt.com

Chad W. Graham: Cgraham@wardfirm.com

August 11, 2023.

s/ L. Lee Plumblee

L. Lee Plumblee

Attorney for Respondent
