

69157

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM AIKEN COUNTY
COURT OF COMMON PLEAS
THE HONORABLE DOYET A. EARLY, III CIRCUIT COURT JUDGE
THE HONORABLE CLIFTON NEWMAN, CIRCUIT COURT JUDGE

Civil Action No.: 2011-CP-02-00868

Paige Weeks Johnson, as Personal Representative
of the Estate of Christie Lane Valenzuela,

RESPONDENT,

versus

Sam English Grading, Inc.,

APPELLANT.

Motion for Extension of Time from receipt of Transcript to File Brief and
Motion for Temporary Stay and Motion for further Extension of Time to file
Briefs to Enable the Parties to Conduct a Mediation with the Potential to
Settle this case, and also a Companion Case that is Currently Stayed in the
Circuit Court for Aiken County Pending the Resolution of this Case.

Charles E. Carpenter Jr., counsel for the Appellant, with the consent of counsel
for the Respondent, moves the Court to **grant an extension of time from receipt of
Transcript to File Brief and grant a Temporary Stay or suspension of the
briefing schedule and grant a further extension of time to file briefs to enable
the parties to conduct a mediation in the above-captioned matter.**

RECEIVED
JUL 22 2013

SC Court of Appeals

Counsel received the transcript on Friday May 17, 2013. The Aiken postmark is May 3, 2013 and counsel does not know how or why the box with the five volumes of transcript was not received until Friday, May 17, 2013.

When the undersigned counsel moved his office from 1201 Main St. Suite 980 he established a Post Office Box 1774 at the Main Post Office on Assembly St., thinking that mail would arrive the quickest. Counsel's paralegal, Allison Estrada, went to the PO Box every afternoon. It was not until Friday, May 17, 2013 that a card notice was in PO Box 1774 directing her to come to the window to receive mail, which turned out to be the transcript in a box postmarked May 3. Since that date made no sense being two weeks before it was received at the Post Office and delivered, counsel used the May 17, 2013 date of receipt from which to diary, and used June 16, 2013 as the deadline for a brief.

The transcript was due by May 10, 2013. The postmark in Aiken should mean the court reporter completed it on or about May 3, 2013, but for no known reason it was two weeks later, May 17, before the Post Office gave notice to counsel for the appellant that it was received in Columbia and was available.

Counsel has no information or explanation for a postmark that is two weeks earlier than delivery and receipt and tried to use the only date that was known to counsel to be accurate, May 17, 2013.

If it was incorrect to use the receipt date, which was the only date that would be consistent with mailing reasonably close to receipt, counsel requests an initial extension of time in which to file the Brief of Appellant to extend to 30 days from whatever date is deemed to be correct for delivery of the Transcript and further, in addition, the Appellant, moves, with the consent of counsel for the Respondent, for a Temporary Stay and an extension or suspension of the briefing schedule to enable the parties to conduct a mediation of this case. The parties also intend to include in the mediation its companion case which is currently stayed in the Circuit Court for Aiken County.

The parties have agreed to mediate and are already making arrangements by circulating dates and mediator names in order to schedule the mediation.

Should the mediator reports an impasse, Counsel requests a stay or suspension of the briefing schedule, until, and to begin, thirty days after a mediation report of impasse. If the mediation report is of a successful mediation then the briefing schedule would become moot and the appeal would be dismissed.

Counsel offers to advise the Court of the status of the mediation each 30 days, or such other time as preferred by the Court, from the date of an Order on this Motion

Notice of this motion is being provided to counsel for the adverse party.

Because of this unexplained delay to counsel's PO Box took place, counsel has now changed his address again in the court's system to 4825 Portobello Rd., Columbia, SC 29206 so there will be no future worry about processing at the Post Office for important but large documents.



Charles E. Carpenter, Jr.
CARPENTER APPEALS AND TRIAL SUPPORT, LLC
4825 Portobello Road
Columbia, SC 2926
(803) 758-2886

James C. (Trey) Cox, III
Danielle F. Payne
GRIER, COX & CRANSHAW, LLC
Post Office Box 2823
Columbia, SC 29202
(803) 731-0030
**ATTORNEYS FOR APPELLANT,
SAM ENGLISH GRADING, INC.**

July 18, 2013.