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**RECEIVED**  
FEB 07 2024  
SC Court of Appeals

January 29, 2024

Katherine Harrison  
Deputy Clerk  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: Nicholas Sanfilippo v. Estates at Westbury Horizontal Property Regime  
Appellate Case No. 2022-001554  
Appellate Chief Deputy Harrison

Dear Deputy Clerk of Court Harrison:

This letter is in response to Deputy Harrison's letter to me on January 25, 2024 saying that I had failed to file the Appellant's Record on Appeal in the above referenced case on a timely basis. The letter further stated that, in addition to failing to file the Record on Appeal with the Court of January 2, 2024, I had also neglected to request for an extension of time to accomplish the same.

Please accept the following as an explanation for what may appear to be a gross act of negligence.

In Late October 31, 2023 I received e-mail notice from this Court that an Order Denying the Respondent's Motion to Dismiss had been denied. This Order was characterized as "non-dispositional" and indicted Appellant's appeal motion would be heard by the Court and that the Initial Brief of the Respondent was due in thirty days.

On or about November 30, 2023, I received a copy of the "Respondent's Initial Brief" which included the following: Table of Contents, Table of Authorities, Statement of Issues, Statement of the Case, Standard of Review, Argument and Conclusion.

I was confused by Respondent's response. While I expected the Initial Brief that was requested in this Court's Order, I did not know what to make of the Record On Appeal that was included in the Initial Brief. So as to understand the

Respondent's submission of the "Initial Brief "accompanied by the "Record on Appeal," I contacted the Appellate Court. I spoke at length re the subject to a court associate. While, unfortunately, I do not recall her name, I found her to be knowledgeable and helpful.

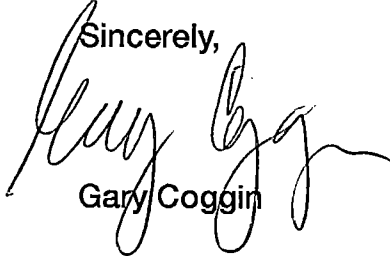
I told the associate that because my previous submissions to the Court were sufficient to overcome the Respondent's Motion to Dismiss, I did not wish to submit additional material to the Court to answer to the Respondent's most recent brief of November 30, 2023. (I had reviewed the Respondent's latest submission and concluded that it was similar, if not the same, as the Respondent's Motion to Dismiss that had been denied by the Court on October 31, 2023)..

As per this discussion with the Court, I believed that the Court would re-examine its denial of the Defendant's Motion to Deny in light of the Respondent's most recent submission. However, because I was confident that the Court would rule in favor of the Appellant, I did not make a submission. I told the Associate that, "I would stand by my former arguments."

The following week, I began to review my e-mails and U.S. Mail postings for communications from the Court as per any ruling regarding the Respondent's November 30, 2023 requesting the Court to overturn the October 31, 2023 Order Denying Respondent's Motion to Dismiss.

Late last week, January 25, 2024, I received a letter from Chief Deputy Katherine Harrison of the South Carolina Appellate Court. The letter stated the Appellant's Record on Appeal that was due to be filed on January 2, 2024 and was overdue. I was at fault for failing to file, or in the alternative, to make a motion to file out of time.

Therefor, with the above said, under the authority of Ms. Katherine Harrison, I am submitting the following Appellant's Motion for an "Extension of Time" and to "File out of Time."

Sincerely,  
  
Gary Coggin

Copy: Nathan Akers

IN THE SOUTH CAROLINA COURT OF APPEALS

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FEB 07 2024

SC Court of Appeals

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APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

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Appellate Case No.: 2022-001554

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Nicholas Sanfilippo

Appellant,

vs.

Estate at Westbury  
Horizontal Property Regime

Respondent,

**APPELLANT'S**  
**MOTION FOR EXTENTION OF TIME AND TO FILE OUT OF TIME**

Gary Coggin  
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for Appellant

Nathan Akers  
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for Respondent

Katherine Harris  
Clerk  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

**APPELLANT'S**  
**MOTION FOR AN EXTENTION OF TIME AND TO FILE OUT OF TIME**

COMES NOW the Appellant and, pursuant to this Court's January 25, 2024 communication with Appellant regarding Appellant's tardiness in filing and serving the Record on Appeal in the instant case, requests that this Appellate Court, first, permit the Appellant to "File Out of Time"and, second, "Extend the Time to File and Serve" the Initial Brief and Record on Appeal an additional thirty (30) days (no later than March 4, 2024).

With the above said, I offer the following explanation for what may appear, at first blush to be an act of negligence.

In late October, 2023 I received e-mail notice from this Court that the Respondent's Motion to Dismiss in the case Sanfilippo versus Estate at Westbury had been denied. This Order was characterized as "non-dispositional" and indicted Appellant's appeal motion would be heard by the Court and that the Initial Brief of the Respondent was due in thirty (30) days.

On or about November 30, 2023, I, as the Appellant's counsel received a copy of the "Respondent's Initial Brief" which included the following Records on Appeal: Table of Contents, Table of Authorities, Statement of Issues, Statement of the Case, Standard of Review, Argument and Conclusion.

I was very confused by Respondent's response. While I had expected the inclusion of an Initial Brief that was was requested in this Court's Order, I did not

know what to make of the Record On Appeal that was also submitted by the Respondent as part his initial brief.

So as to understand the Respondent's submission of the Record on Appeal along with the required Initial Brief, I contacted the Appellate Court. I spoke at length re the subject to a court associate who was very helpful and knowledgeable.

I told the Associate that because my previous submissions to the Court were sufficient to overcome the Respondent's Motion to Dismiss, I did not wish to submit additional material, particularly another brief to the Court in answer to the Respondent's most recent brief of November 30, 2023. (I had reviewed the Respondent's latest brief and concluded it to be very similar to the Respondent's Motion to Dismiss which had been denied by the Court on October 31, 2023).

The Associate, whose name I don't recall, indicated to me that while I did not have to file an initial brief at this time I would at sometime later in the process have to submit a brief. I took this to mean that I also did not have to submit a brief or a Record on Appeal at this juncture. (Please be aware that the Associate Clerk did not say anything about the submission or non-submission of the Record on Appeal. In my mind, I considered the Initial Brief and the Record on Appeal to be parts of a whole. That sin is on me and may have been the result of wishful thinking).

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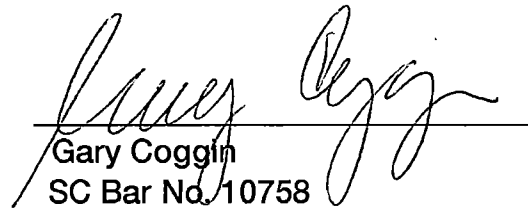
The following week, I began to review my e-mails and U.S. Mail postings for communications from the Court as per any ruling regarding the Respondent's November 30, 2023 Initial Brief requesting the Court to overturn the October 31, 2023 Order Denying Respondent's Motion to Dismiss. However, nothing was forthcoming.

Late last week, January 25, 2024, I received a letter from Chief Deputy Catherine Harrison of the South Carolina Appellate Court. The letter stated the Appellant's Record on Appeal had been due on January 2, 2024 and was now overdue. Suddenly it was obvious to me that I was negligent and at fault for failing to file an initial brief which included the Record on Appeal. Similarly, I had compounded my negligence by failing to motion the Appellate Court for "Additional Time" and "To File Out of Time."

#### CONCLUSION

So as to explain the above, please be aware that I have previously provided this Court information that I have been diagnosed as having suffered a stroke about ten months ago and, in the ensuing time, a CT scan showed I have experienced as many as 10 - 12 TIAs. Because of this and also my age (80 in March 2024), I suffer increasingly severe dementia and, try as I might, I repeat tasks and forget others. As a result, I closed my active law practice in October, 2023. Currently I am working on three cases, one of which is the case at hand. Upon completion of these cases I will permanently end my practice. Finally, I believe it is important for this Court to know

that despite being in the law for over three decades, this is my first appeal.

A handwritten signature in black ink, appearing to read "Gary Coggin", is written over a horizontal line.

Gary Coggin  
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843.785.7442  
*for Appellant*

January 29, 2024

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SC Court of Appeals

IN THE SOUTH CAROLINA COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

Appellate Case No.: 2022-001554

Nicholas Sanfilippo

Appellant,

vs.

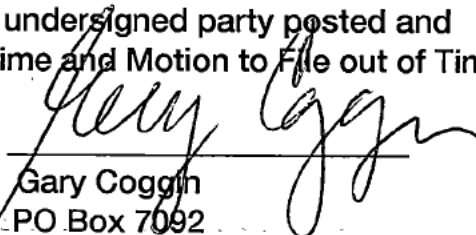
Estate at Westbury, HPR

Respondent,

**CERTIFICATION OF SERVICE OF APPELLANT'S  
MOTION FOR EXTENTION OF TIME AND TO FILE OUT OF TIME**

I, Gary Coggin, as Attorney for Nicholas Sanfilippo, being of sound mind and under no duress do hereby affirm that the following is true and correct:

That on behalf of Nicholas Sanfilippo, the undersigned party posted and emailed the Appellant's Motion for Extension of Time and Motion to File out of Time

  
\_\_\_\_\_  
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January 29, 2024