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Aug 22 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Hon. Dale Van Slambrook, Master in Equity

Case No.: 2023-CP-0801531
Appellate Case No.: 2024-000867

Michael L. Woods,

Appellant

vs.

Wyman Jean Woods, Jr., Trustee of the Wyman and
Marguerite Woods Family Trust utd 01/16/98,

Respondent

**REPLY TO RESPONDENT'S RETURN TO APPELLANT'S
MOTION TO SERVE AND FILE OUT OF TIME**

On August 19, 2024, Appellant filed and served its Motion for Permission to Serve and File Outside of Time with regard to Appellant's Initial Brief and Designation of Matter for Inclusion in the Record on Appeal. Simultaneously therewith, Appellant filed and served the Initial Brief of the Appellant and Designation of Matter for Inclusion in the Record on Appeal. Respondent has filed a Return to the Appellant's Motion objecting to the relief sought. Respondent's objection is substantially based on the Motion's absence of a statement of cause for the late filing. The following is provided for benefit of the Court and Respondent.

On July 1, 2024, Appellant received an Extension of Time to file and serve Appellant's Initial Brief and Designation of Matter, making the same due on July 31, 2024. Late in the afternoon of July 30, 2024, following worsening symptoms and leaving work early, Appellant's Counsel, as well as his wife and children, all tested positive for Covid-19, and Counsel was subsequently out of his office until Monday, August 5, 2024. During Counsel's absence, various trials, conferences, and client appointments had to be continued or cancelled. Appellant's Counsel did not return to his office until Monday, August 5, 2024, at which time Counsel and his staff were then presented with the task of preparing his office for closure due to Tropical Storm Debby while also trying to address the many matters remaining unattended and missed from the prior week's

absence. While Counsel's office was closed from August 6 through August 9, Counsel received the Court's e-mail correspondence dated August 7, 2024, notifying Counsel of the expired deadline and directing Counsel to file and submit a Motion within ten (10) days of the letter, which was calendared for Monday, August 19, 2024, based upon the tenth day falling on Saturday. On Monday, August 19, 2024, Counsel filed and served all required documents and the Motion as requested and directed by the August 7, 2024 letter, and within the required time as calculated by Rule.

In the numerous appeals that counsel has been involved with over the years, Motions for Extension of Time to File, as well as Motions for Permission to File Outside of Time, have been a regular and routine occurrence among and between the various parties and attorneys for all sides involved. It has not proven necessary in Counsel's experience to detail reasons or ask for reasons from others who file such motions, with parties and attorneys generally consenting or otherwise simply not objecting when the motions are filed. But for a *pro se* party who repeatedly failed to file or format properly when requested, the undersigned's experience has been that of the Court permitting matters to simply proceed with routine grace following such motions from the parties. Upon receipt of the Court's August 7, 2024, communication, Appellant's Counsel simply relied upon past experience and proceeded in the same form and fashion as Counsel has either performed or seen numerous other attorneys perform in past matters. However, absent the above explanations within the body of Appellant's Motion, Respondent's Counsel was understandably completely unaware of: (i) Counsel's illness at the initial due date and resulting absence from work, (ii) the compounding effects caused by Counsel's office closures and lack of staff availability the following week, or (iii) the undersigned's assumption that, following the August 7, 2024 letter from the Court, the form and substance of similar motions observed or experienced by the undersigned in past matters would suffice.

Being reminded in hindsight that the strained relationship between the individual litigants in this matter restricts to some degree the ability of counsel for either party to simply accept a bare-form motion without causing significant client discontent, it certainly would have been advisable for undersigned Counsel to make his troubled scheduling issues known within the Motion filed with this Court. Appellant respectfully requests that the Motion for Permission to File and Serve Outside of Time be granted so that briefing can be completed and the case submitted to for the Court's review.

Respectfully submitted,

/s/ Andrew T. Shepherd
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Attorney for Appellant

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Respondent

PROOF OF SERVICE

I certify that I have served the Reply to Respondent's Return to Appellant's Motion to Serve and File Out of Time and the within Proof of Service on Wyman Jean Woods, Jr., Trustee of the Wyman and Marguerite Woods Family Trust utd 01/16/98 via e-mail, on August 22, 2024, addressed to his attorney of record, John S. West, Esquire, at jwestlaw@homesc.com.

August 22, 2024

/s/ Andrew T. Shepherd
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