

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

69648

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Steven H. John, Presiding Judge

Case No. 2009-CP-26-10523

Appellate Case No. 2012-213287

Elizabeth A. Crotty and James K. Orzech *Appellants,*

v.

Windjammer Village of Little River, South Carolina,
Property Owners' Association, a South Carolina
Eleemosynary Corporation *Respondent.*

**RESPONDENT'S MOTION TO EXTEND TIME
PENDING THE COURT'S DISPOSITION OF
RESPONDENT'S MOTION TO STRIKE MATTER INCLUDED
IN APPELLANTS' AMENDED DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Respondent Windjammer Village of Little River, South Carolina, Property Owners' Association hereby moves for an Order granting Respondent's Motion to Extend Time Pending the Court's Disposition of Respondent's Motion to Strike Matter Included in Appellants' Amended Designation to be Included in the Record

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SC Court of Appeals

on Appeal. Specifically Respondent seeks an Order granting an extension of time to file its initial brief and designation of matter in response to Appellant's Amended Initial Brief. In support of its motion seeking an extension, the Respondent would show and allege as follows:

PROCEDURAL HISTORY

- (1) The Appellants filed and served their Initial Brief and Designation of Matter on March 13, 2013.
- (2) The Respondent filed and served a Petition for an Extension of Time to file its initial brief and designation of matter on March 15, 2013; thereafter, the Appellants timely filed their Return to Respondent's Petition. The Court's Order of March 29, 2013 granted the Respondent's Petition and extended the due date for filing and service of Respondent's initial brief and designation of matter until May 13, 2013.
- (3) After reviewing the copious amount of material referenced in the Appellants' Initial Brief and Designation of Matter, on April 29, 2013 the Respondent filed and served a Motion to Dismiss, or in the Alternative, to Strike Matter from Appellants' Initial Brief and Designation of Matter; thereafter, the Appellants timely filed and served their Return to Respondent's Motion.

- (4) While Respondent's April 29, 2013 Motion to Dismiss, or in the Alternative to Strike was pending determination by the Court, the Appellants filed and served a Motion to Amend and Replace their Designation of Matter on May 24, 2013.
- (5) Inasmuch as the appeal was stayed pending the Court's determination on Respondent's April 29, 2013 Motion to Dismiss or in the Alternative to Strike, the Respondent did not file a Return to the Appellants' May 24, 2013 Motion to Amend and Replace their Designation of Matter.
- (6) On July 2, 2013, the Court issued its Order on Respondent's April 29, 2013 Motion to Dismiss, or in the Alternative to Strike, Matter from the Appellants' Initial Brief and Designation of Matter. The Court found that the Statement of the Issues on Appeal in Appellants' Initial Brief contained material that did not comply with Rule 208(b)(1)(B), SCACR, and granted the Respondent's Motion, in part, by striking pages 1, 2, and a portion of page 3 of Appellants' Initial Brief. The Court's Order directed the Appellants to file an Amended Initial Brief within ten days. Further, the Court's Order granted Appellants' Motion to Amend their Designation of Matter.
- (7) Respondent filed and served its Motion to Strike Matter Included in Appellants' Amended Designation of Matter on July 8, 2013.

(8) Pursuant to the Court's Order, the Appellants timely filed and served their Amended Initial Brief on July 12, 2013.

(9) While aware that a Motion to Strike does not stay the time for perfecting an appeal, on July 29, 2013 the Respondent filed a Petition requesting the Court grant the Respondent additional time to prepare, file, and serve its initial brief and designation of matter. The Respondent's Petition was precipitated by several events.

(a) The Appellants revised the pages as specified in the Court's July 2, 2013 Order, and filed their Amended Initial Brief on July 12, 2013. However, the Appellants' Amended Initial Brief also included significant revisions not specified or authorized by the Court's July 2, 2013 Order. The Appellants, in filing an Amended Initial Brief as required by the Court, took the liberty of amending their *entire* Initial Brief, as filed on March 13, 2013, to include matters not previously asserted.

(b) The Respondent's Petition was also due in part to the office relocation of Respondent's counsel's on July 1, 2013, which caused his Firm to experience unanticipated problems when moving its computer systems and server, thereby significantly impacting the workflow of the Firm.

ARGUMENT

Respondent respectfully and specifically request an extension until thirty (30) days have elapsed after the Court has ruled on Respondent's pending Motion to Strike Matter Included in Appellants' Amended Designation of Matter dated July 8, 2013. Respondent asserts that this present motion is reasonable and justified due to the fact that the Appellants' Amended Initial Brief also included significant revisions not specified or authorized by the Court's July 2, 2013 Order. Furthermore, Appellants, in their Amended Initial Brief, make numerous references to the materials that are the subject of Respondent's Motion to Strike Matter Included in Appellants' Amended Designation of Matter dated July 8, 2013.

Respondent will likely incur unnecessary and costly legal expenses if required, prior to the Court's disposition of Respondent's pending Motion to Strike Matter Included in Appellants' Amended Designation of Matter dated July 8, 2013, to file its initial brief and designation of matter in response to Appellant's Amended Initial Brief. Because Respondent's Initial Brief will necessarily be responsive to the materials included in Appellants' Amended Designation of Matter, Respondent asserts that it would be just and reasonable if the Court would grant to Respondent the requested extension of time in which Respondent must file its initial brief and designation of matter in response to Appellant's Amended Initial Brief.

Respectfully submitted,

**WRIGHT, WORLEY, POPE, EKSTER
& MOSS, PLLC**

A handwritten signature in black ink, appearing to read 'K. R. Moss', is written over a horizontal line.

Kenneth R. Moss, SC Bar # 15520

628A Sea Mountain Highway

North Myrtle Beach, SC 29582

Tel: (843) 281-9901, ext. 103

Email: kennethmoss@wwpemplaw.com

North Myrtle Beach, South Carolina
September 3, 2013

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PROOF OF SERVICE

I certify that I have served a copy of the Respondent's Motion to Extend Time Pending the Court's Disposition of Respondent's Motion to Strike Matter Included in Appellants' Amended Designation of Matter to be Included in the Record on Appeal, and Proof of Service of same, on the following individuals by United States Mail, with sufficient first-class postage affixed, addressed as follows:

Elizabeth A. Crotty
2121 Brunswick Circle
Little River, SC 29566
Pro se Appellant

James K. Orzech
2148 Gamecock Circle
Little River, SC 29566
Pro se Appellant

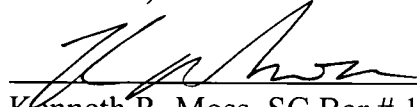
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Respectfully submitted,

**WRIGHT, WORLEY, POPE, EKSTER
& MOSS, PLLC**



Kenneth R. Moss, SC Bar # 15520

628A Sea Mountain Highway

North Myrtle Beach, SC 29582

Tel: (843) 281-9901

Fax: (843) 281-9903

North Myrtle Beach, South Carolina
September 3, 2013