

**Jan 30 2025**

**MOTION TO EXTEND TIME TO PERFECT APPEAL** SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM UNION COUNTY  
Court of Common Pleas

William A. McKinnon, Circuit Court Judge

No. 2022-CP-44-00188

Sally T. Atwater and Ashley Atwater,  
as Trustees of the Sally D. Atwater Revocable Trust,

Respondents,

vs.

Curtis Dunbar, Individually and as former  
Co-Personal Representative of the Estate of Theo(Dosia) Dunbar,

Appellant.

**MOTION TO EXTEND TIME TO PERFECT APPEAL**

Upon receipt of Notice of Appeal, it was brought to attention of the Appellant that a calendaring error had been made with the date by which to serve Notice of Appeal. Appellant moves the Court for the necessary extension of one (1) day to serve Respondents, the service of which has been made prior to the filing of this motion.

January 30, 2025

s/ William D. All III  
William D. All III (SC Bar #101660)  
ALL & FROST, LLC  
108 West South Street  
P.O. Box 731  
Union, South Carolina 29379  
(864) 427-9700  
Attorney for Appellant

**MEMORANDUM IN SUPPORT MOTION TO EXTEND TIME TO PERFECT APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM UNION COUNTY  
Court of Common Pleas

William A. McKinnon, Circuit Court Judge

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No. 2022-CP-44-00188

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**Jan 30 2025**  
**SC Court of Appeals**

Sally T. Atwater and Ashley Atwater,  
as Trustees of the Sally D. Atwater Revocable Trust,

Respondents,

vs.

Curtis Dunbar, Individually and as former  
Co-Personal Representative of the Estate of Theo(Dosia) Dunbar,

Appellant.

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**MEMORANDUM IN SUPPORT OF  
MOTION TO EXTEND TIME TO PERFECT APPEAL**

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In support of Appellant's Motion to Extend Time To Perfect Appeal, the Appellant would show this Honorable Court: The Appellant erred in calculating the thirty (30) days from receipt of the Order of the Trial Court, erroneously calendaring the final date to serve the Notice of Appeal as January 30, 2025, when by proper calculations the date should have been January 29, 2025. The error appears to be due to mistakenly counting December as a thirty (30) day month.

Appellant was made aware of the error by a phone call on January 30, 2025 with Respondent's counsel, and immediately contacted the Court and filed the attached motion. Appellant argues that the calendaring error was by mistake or inadvertence, his Appeal is taken in Bona Fide,

and that the Appellant understands the Court may and should take action to protect the Respondent who has been delayed in the enforcement of his rights. (See *Wade v. Gore*, 154 S.C. 262, 151 S.E. 470, 472 (1930) A party seeking relief under that section will have to show clearly that the acts, which were necessary for him to do, were omitted ““through mistake or inadvertence,” that his appeal “was taken bona fide,” and he may expect the court, even if the motion is granted, to impose such terms as we shall think just in the premises to protect the party who is being delayed in the enforcement of his rights.)

The order (for which the time limit to serve the Notice of Appeal runs) was submitted to the Court on December 17, 2024. The order was signed, electronically on December 28, 2024. Finally, Notice of Electronic filing was sent to the parties on December 30, 2024. Appellant would show by an email dated December 27, 2024 (See Attached Exhibits A & B), that informed Respondents’ Counsel, “Despite what we feel is *an egregious error of law on behalf of the court*, we are willing to make a settlement offer before continuing any further in this action, prior to mediation, and prior to *any appeals*.” (Emphasis Added). By way of aforementioned email, Appellant had provided some informal notice to the Respondents, prior to the execution of the submitted proposed order, that he had intent to appeal the order. Appellant further asserts that due to its knowledge of the intent of the Appellant, the Respondent will suffer no prejudice should this extension be granted.

As this error was by mistake or inadvertance, the appeal is taken in Bona Fide, the Appellant understands the Court will and should take action to protect the Respondent who has been delayed in the enforcement of his rights, and because Respondents’ were already on informal notice of the Appellant’s intent to appeal, Appellant respectfully requests the Court extend the time to perfect

service by one (1) day.

Respectfully Submitted,

January 30, 2025

*s/ William D. All III*  
William D. All III (SC Bar #101660)  
ALL & FROST, LLC  
108 West South Street  
P.O. Box 731  
Union, South Carolina 29379  
(864) 427-9700  
Attorney for Appellant

**EXHIBIT A**

**DECEMBER 27, 2024 Email to TYLER McLEOD**

## Will All

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**From:** Will All <wall@allandfrost.com>  
**Sent:** Friday, December 27, 2024 9:50 AM  
**To:** 'Tyler Mcleod'  
**Cc:** 'marissa@allandfrost.com'; 'Erin Callahan'  
**Subject:** Offer of Settlement - Atwater v. Dunbar - 2022CP4400184  
**Attachments:** 16. Settlement Letter - 12272024.pdf

Tyler,

Attached is our current offer for settlement.

Our Office is closed right now and I don't expect you to worry yourself with this until the new year. I just had to stop by my office to get a writ of assistance together to serve and figured I'd shoot off this email real quick.

Hope you had a merry Christmas and I wish you a happy new year.

With Best Regards,

William D. All, III  
**All & Frost, LLC, Attorneys at Law**  
108 W. South Street, P.O. Box 731  
Union, South Carolina 29379  
Phone: 864.427.9700 | Fax: 864.427.7608

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**EXHIBIT B**

**ATTACHED LETTER SENT IN THE  
DECEMBER 27, 2024 EMAIL TO TYLER McLEOD**

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# ALL & FROST, LLC

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ATTORNEYS AT LAW  
108 WEST SOUTH STREET  
POST OFFICE BOX 731  
UNION, SOUTH CAROLINA 29379

WILLIAM D. ALL II, OF COUNSEL  
GARY T. FROST  
WILLIAM D. ALL III

PHONE: (864) 427-9700  
FAX: (864) 427-7608

**VIA EMAIL**  
December 27, 2024

Brown, Massey, Evans, McLeod & Haynsworth, LLC  
Attn: Tyler McLeod  
P.O. Box 2464  
Greenville, SC 29602

In RE: Real Property Lawsuit - Union, South Carolina  
Case No: 2022CP4400184  
My Client: Curtis Means Dunbar  
Your Client(s): Trustees of the Sally T. Atwater Revocable Trust

***FOR SETTLEMENT NEGOTIATIONS ONLY***

Dear Tyler:

Despite what we feel is an egregious error of law on behalf of the court, we are willing to make a settlement offer before continuing any further in this action, prior to mediation, and prior to any appeals.

**OFFER OF SETTLEMENT**

We are willing to offer one hundred thousand dollars (\$100,000.00) for the Plaintiff's to execute a quit-claim deed of any interest they may have in the tree farm subject of this action, and dismiss this action.

We would like to receive an acceptance, rejection, or counter-offer within fifteen (15) days of your receipt of this letter.

I look forward to hearing from you at your earliest convenience.

With best regards,

Sincerely,



William D. All, III

WDAllIII/mrw

RECEIVED

Jan 30 2025

SC Court of Appeals

**PROOF OF SERVICE OF A NOTICE OF APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM UNION COUNTY  
Court of Common Pleas

William A. McKinnon, Circuit Court Judge

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No. 2022-CP-44-00188

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Sally T. Atwater and Ashley Atwater,  
as Trustees of the Sally D. Atwater Revocable Trust,

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Co-Personal Representative of the Estate of Theo(Dosia) Dunbar,

Appellant.

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**PROOF OF SERVICE**

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I certify that I have served the Motion to Extend Time to Perfect Appeal, Memorandum, and Attached Exhibits on Tyler McLeod by emailing a .PDF of the Motion to Extend Time to Perfect Appeal, Memorandum, and Exhibits to [tmcleod@bmemhlaw.com](mailto:tmcleod@bmemhlaw.com), being Tyler McLeod's primary e-mail address listed in the Attorney Information System (AIS), a copy of which is attached to this proof of service. Service by Email is made pursuant to Rule 262(a)(3), SCACR and South Carolina Supreme Court Order 2024-04-24-01, Section (d)(1).

January 30, 2025

*s/ William D. All III*  
\_\_\_\_\_  
William D. All III (SC Bar #101660)  
ALL & FROST, LLC  
108 West South Street  
P.O. Box 731  
Union, South Carolina 29379  
(864) 427-9700  
Attorney for Appellant

## Will All

---

**From:** Will All <wall@allandfrost.com>  
**Sent:** Thursday, January 30, 2025 3:29 PM  
**To:** 'Tyler McLeod'  
**Cc:** 'Erin Callahan'; 'Jenna McLeod'; 'marissa@allandfrost.com'  
**Subject:** Service of Motion - 2022CP4400188 - SC Ct App Case No. 2025-165  
**Attachments:** A7 - MOTION TO EXTEND TIME TO PERFECT APPEAL.pdf; A8 - MEMORANDUM OF MOTION TO EXTEND TIME TO PERFECT APPEAL.pdf; A8a - Memo Exhibit A complete.pdf; A8b - Memo Exhibit B complete.pdf

Tyler,

Attached is a copy of the Motion to Extend Time to Perfect Appeal, Memorandum, and Exhibits in Case No. 2022-CP-44-00188, SC Court of Appeals Case No. 2025-000165

This e-mail constitutes service of process of by e-mail made pursuant to Rule 262(a)(3), SCACR and South Carolina Supreme Court Order 2024-04-24-01, Section (d)(1).

With Best Regards,

William D. All, III

**All & Frost, LLC, Attorneys at Law**

108 W. South Street, P.O. Box 731

Union, South Carolina 29379

Phone: 864.427.9700 | Fax: 864.427.7608

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# ALL & FROST, LLC

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WILLIAM D. ALL II, OF COUNSEL  
GARY T. FROST  
WILLIAM D. ALL III

PHONE: (864) 427-9700  
FAX: (864) 427-7608

**VIA USPS AND ONEDRIVE**  
January 30, 2025

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

**RECEIVED**

**Jan 30 2025**

**SC Court of Appeals**

RE: Sally T. Atwater and Ashley Atwater, as Trustees of the Sally D. Atwater Revocable Trust,, Respondents, v. Curtis Dunbar, Individually and as former Co-Personal Representative of the Estate of Theo(Dosia) Dunbar, Appellant, Case No. 2022-CP-44-00188

Dear Honorable Ms. Kitchings:

Enclosed for filing is a Motion to Extend Time to Perfect Appeal in the above case. Also enclosed are the following:

1. Proof of service of the Motion to Extend Time to Perfect Appeal on the respondents and a copy of the email sent to respondents' counsel.
2. A Memorandum in Support of the Motion
3. A filing fee of Fifty (\$50.00) Dollars (via USPS).

With best regards,

Sincerely,

William D. All, III

WDAIII

cc: Brown, Massey, Evans, McLeod & Haynsworth, LLC  
Attn: Tyler McLeod  
P.O. Box 2464  
Greenville, SC 29602  
Attorney for the Respondents

All & Frost, LLC, Attorneys at Law  
108 West South Street, Post Office Box 731  
Union, SC 29379



The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

All & Frost, LLC, Attorneys at Law  
108 West South Street, Post Office Box 731  
Union, SC 29379



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