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December 6, 2013

Via FX & Regular Mail

V. Claire Allen, Deputy Clerk  
S.C. Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: BRUCE MILLER vs. COLUMBIA FOREST, INC., et al  
C/A #2011-CP-07-2148

Dear Ms. Allen:

Enclosed please find a copy of the *Affidavit of Diane Logan*, my paralegal. It addresses the problems associated with the Exhibits which were introduced into evidence at the trial of this matter. It is the basis of this request for an extension of 45 days within which to complete, file and serve a completed *Record on Appeal*. As you can see from the *Affidavit*, we have exhausted every avenue to locate these Exhibits, but a conference between myself and Mr. Battey is required to finalize an agreement as to what pictures were actually exhibits, and with the holidays approaching when many of my staff have vacation, I believe a 30 day extension will be insufficient. I enclose the \$25.00 fee for the extension, and as you can see, I have copied Mr. Battey with this request. With kind regards, I am

Very truly yours,

MOSS, KUHN & FLEMING, P.A.

  
James H. Moss

JHM:dll  
Enclosure

cc: Colden R. Battey, Jr., Esquire

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

70607

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APPEAL FROM THE BEAUFORT COUNTY COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT

MARVIN H. DUKES, III, PRESIDING JUDGE

CASE NO: 2011-CP-07-2148  
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BRUCE MILLER,

Appellant,

vs.

COLUMBIA FOREST, INC.  
FOREST HATCH and IDA M.  
SINGLETON,

Respondents.  
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*AFFIDAVIT OF DIANE L. LOGAN IN SUPPORT  
OF REQUEST FOR EXTENSION FOR FILING RECORD ON APPEAL*  
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Attorneys for Appellant

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Attorney for Respondent,  
Ida Mae Singleton

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PERSONALLY appeared before me DIANE L. LOGAN, who being duly sworn, deposes and states the following:

1. That I have been employed by the law firm of Moss, Kuhn & Fleming, P.A. for 42 years in numerous capacities. For the past 20 years at least, I have been the primary paralegal working for James H. Moss, the senior partner of the law firm;

2. That in that capacity, I have been working on this case and the preparation of the documents for perfection of the appeal;

3. That I started working on securing the materials necessary for completion of the *Record on Appeal* on July 18<sup>th</sup>, 2013, upon receipt of the transcript of the final hearing;

4. That in mid July I sent the firm's Investigator to the Clerk's office to secure copies of each and every Exhibit indicated in the *Reporter's Index of Plaintiff's Exhibit* and the similar index for *Defendant's Exhibits*. He returned with the indication that the Court file contains no Exhibits;

5. That I sent him back once more, to have the vault searched and an inquiry of every employee of the Clerk's office who may have any responsibility for handling of Court exhibits. The answer was the same;

6. That I then sent our Investigator to the Master in Equity's office with the same request, and was told that office did not have any Exhibits. They represented that all had been filed with the Clerk's office;

7. I then contacted Joanne McDonald, the Reporter in this matter, to inquire if, by any chance, she could shed some light on the whereabouts of the file's Exhibits. Her e-mail response was as follows:

"Diane, I had some exhibits in my office when we were moved during the courthouse renovations. I moved them to the temporary office in a box. Some needed coversheets that were now required of me by the Clerk. However, before I could finish that, Judge Dukes instructed Heather to file all exhibits with the Clerk's office which she said she did. I certainly do not have them.

"By copy of this to Heather, I would ask her to respond to you as to perhaps who she filed them with or just what that procedure entailed...."

8. That upon receipt of this response from the Reporter, I contacted Colden Battey, counsel for the Respondent in this matter, on November 12<sup>th</sup>, 2013, requesting his assistance with respect to the Exhibits, hoping that he had a complete set of numbered Exhibits which were actually introduced into evidence.

9. That on November 13<sup>th</sup>, 2013, I once again sent an extensive e-mail to both Jeri Roseneau, Beaufort County Clerk, and Heather McLeod, Assistant to the Master in Equity, going over the Exhibit situation and requesting responses from each of them as to any other suggested avenue of recovery.

10. That while waiting on responses from Mr. Battey, the Clerk and Ms. McLeod, I undertook an extensive evaluation of our file, all of the pictures and other evidentiary material contained therein, and attempted to match up those materials to the language in the Transcript. That proved to be quite an arduous process, and I was successful in identifying only a few of the documents as Exhibits. I also discovered that the listing of Exhibits in the Transcript had incorrectly named some Exhibits as having been introduced by the other party.

11. That on November 18<sup>th</sup>, 2013, I received a phone call from Judge Dukes's office, advising that upon the retirement of the Reporter in this matter, she was instructed by Judge

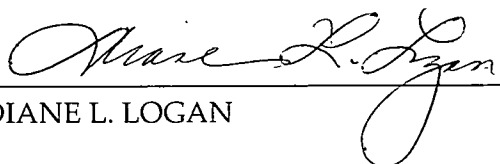
Dukes to get all Exhibits filed with the Clerk. Pursuant to that instruction, she sorted a great many documents and tasked a young man named "Jared" to complete the filing forms required by the Clerk, and deliver them to the Clerk's office, which he did.

12. That further, on November 18<sup>th</sup>, 2013, I sent another e-mail to the Clerk's office with that information and received a telephone call from Jamie Thompson, the member of the Clerk's staff who handles trial Exhibits, the Court's rosters, and multiple other responsibilities. Ms. Thompson indicated that she has personally check the file, the vault and the electronic record of all scanned documents and there is NO ENTRY for any Exhibits in this case.

13. That on November 19<sup>th</sup>, 2013, I received a call from Mr. Battey, who put together a package of materials from his file, representing all he had for Exhibits, which I promptly went through, attempting to match up those documents with the transcript.

14. That I have met with Mr. Moss and gone over my work on this project, and he has identified what he believes to be the Exhibits which I have been unable to match with the testimony in the transcript. I have now put together a copy of those materials for Mr. Battey's review and agreement, so that I can *begin* the task of completing the *Record on Appeal*. Those materials will be delivered to Mr. Battey on Monday, December 9<sup>th</sup>, 2013.

15. That upon receipt of a response from Mr. Battey, I will be able to prepare an *Affidavit of Counsel* in which the attorneys involved can avow that the reconstruction effort with respect to Exhibits meets with their approval, and commence work on the *Record*.

  
DIANE L. LOGAN

SWORN to before me this 6<sup>th</sup>  
day of December, 2013.



Notary Public for South Carolina  
My Commission Expires: 9/11/18  
Beaufort, South Carolina

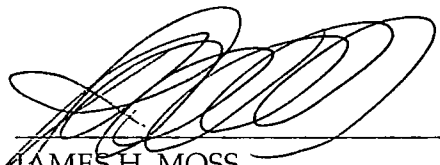
October 15, 2013

CERTIFICATE OF SERVICE

This is to certify that I have this date served a copy of the within and foregoing *AFFIDAVIT OF DIANE L. LOGAN* upon opposing counsel:

Colden R. Battey, Jr., Esquire  
Harvey & Battey, P.A.  
Post Office Drawer 1107  
Beaufort, South Carolina 29901-1107

by placing a copy of the same in the United States Mail, properly addressed and with sufficient postage affixed thereto as required by law.

  
\_\_\_\_\_  
JAMES H. MOSS

Beaufort, South Carolina

December 6<sup>th</sup>, 2013

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