

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

J. Ernest Kinard, Jr., Circuit Court Judge

Case No. 2007-CP-07-02373

Court of Appeals Tracking No. 2010167969

RECEIVED

FEB 04 2014

SC Court of Appeals

Matthew S. McAlhaney, Respondent,

71182

v.

Richard K. McElveen a/k/a Richard K.
McElveen, Sr., Individually and d/b/a
Battery Creek Marina, The Great
Pumpkin, LLC, Linda McElveen, Richard
K. McElveen, Jr., and Billy Joe Byrd, Defendants,

Of whom Richard K. McElveen, Sr., is the Appellant.

**NOTICE OF MOTION AND MOTION TO
EXTEND TIME AND MEMORANDUM**

The Respondent, Matthew S. McAlhaney, by and through his undersigned attorney, pursuant to Rule 240, SCACR, moves the Court of Appeals for an order extending the time for Respondent to file and serve his Initial Brief and Designation of Matter through and including Wednesday, March 5, 2014

As appears from the affidavit of Respondent's counsel, which is attached to this motion, counsel has certain medical issues that are negatively impacting his ability to complete the brief.

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2-3-3

One previous extension has been sought by the Respondent.

The attorney for the Appellant has consented to this motion.

Respectfully Submitted,

By:



Robert V. Mathison, Jr.
Attorney for the Respondent
Matthew S. McAlhaney

MATHISON & MATHISON
Post Office Box 5271
Hilton Head Island
South Carolina 29938-5271
Telephone: (843) 785-6503
Facsimile: (843) 785-6170
Email: mathlaw@aol.com

January 31, 2014

Hilton Head Island, South Carolina.

MEMORANDUM

The relief requested in the motion set forth above is authorized by Rule 240,
SCACR.

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Of whom Richard K. McElveen, Sr., is the Appellant.

AFFIDAVIT
(Robert V. Mathison, Jr.)

PERSONALLY appeared before me Robert V. Mathison, Jr. (herein sometimes
"the Affiant"), who, first being duly sworn, says under oath the following:

1. My name is Robert V. Mathison, Jr., and I am an attorney licensed to
practice law by the state of South Carolina.

2. I am the attorney for the Respondent, Matthew S. McAlhaney, and I reside
at 21 Bateau Road at Hilton Head Island, in Beaufort County South Carolina.

3. I am 66 years of age, of sound mind, and I make this Affidavit of my own personal knowledge.

4. The Affiant's work generally, and, particularly his work on the Respondent's Initial Brief, has been significantly impaired by a chronic hip condition that has recently become acute.

5. The earliest possible date that the Affiant could obtain an appointment to have his condition examined by a specialist was February 4, 2014, at which time the Affiant expects to receive both a prognosis as well as a regimen for relieving or reducing the pain.

6. The Affiant has previously requested and received one 30 day extension of time to file the brief in question, as well as the Designation of Matter.

7. The Affiant has requested and received the consent of the Appellant's counsel to this Motion to Extend Time.

8. The Respondent's Initial Brief and Designation of Matter would otherwise be due on February 3, 2014.

FURTHER THE AFFIANT SAYETH NOT.

[Continued on Next Page]

Robert V. Mathison, Jr.

Robert V. Mathison, Jr.

SWORN to before me this
31st day of January, 2014

Courtney P. Hagers

Notary Public for South Carolina

My Commission Expires: *Sept. 13, 2015*

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K. McElveen, Jr., and Billy Joe Byrd, Defendants,

Of whom Richard K. McElveen, Sr., is the Appellant.

PROOF OF SERVICE

I, Robert V. Mathison, Jr., hereby certify that on February 1, 2014, I filed and served by mail, the originals and copies of the Notice of Motion and Motion to Extend Time and Memorandum and the Affidavit of Robert V. Mathison, Jr., both dated January 31, 2014, by depositing same, with first class postage prepaid, at the United States Post Office at Hilton Head Island, South Carolina, addressed as follows:

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court
Of Appeals
P.O. Box 11629
Columbia, SC 29211

Blake A. Hewitt, Esquire
Bluestein Nichols Thompson &
Delgado
Post Office Box 7965
Columbia, SC 29202

A handwritten signature in cursive script, appearing to read "R. Mathison, Jr.", written in black ink.

Robert V. Mathison, Jr.

LAW OFFICES
MATHISON & MATHISON
POST OFFICE BOX 5271
HILTON HEAD ISLAND, S.C. 29938-5271
TELEPHONE: (843) 785-6503
FACSIMILE: (843) 785-6170
EMAIL: rmathlaw@aol.com

ROBERT V. MATHISON, JR.

KERRY F. MATHISON

January 31, 2014

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

Re: Matthew S. McAlhaney v. Richard K. McElveen, Sr., et al.
Case No. 2007-CP-07-02373
Tracking No. 2010167969

Dear Ms. Kitchings:

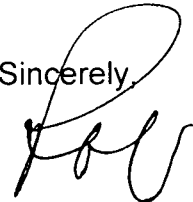
Enclosed for filing please find the originals and six copies each of the following documents:

1. Respondent's Notice of Motion and Motion to Extend Time to file the Respondent's Initial Brief and Memorandum dated January 31, 2014.
2. The Affidavit of Robert V. Mathison, Jr., dated January 31, 2014.

Also enclosed are the original Proof of Service and our check in the amount of \$25.00 to pay the filing fee.

With kind regards, I am

Sincerely,



Robert V. Mathison, Jr.

RVM:bh
Enclosures
cc: Blake A. Hewitt, Esquire
Mr. Matthew S. McAlhaney.

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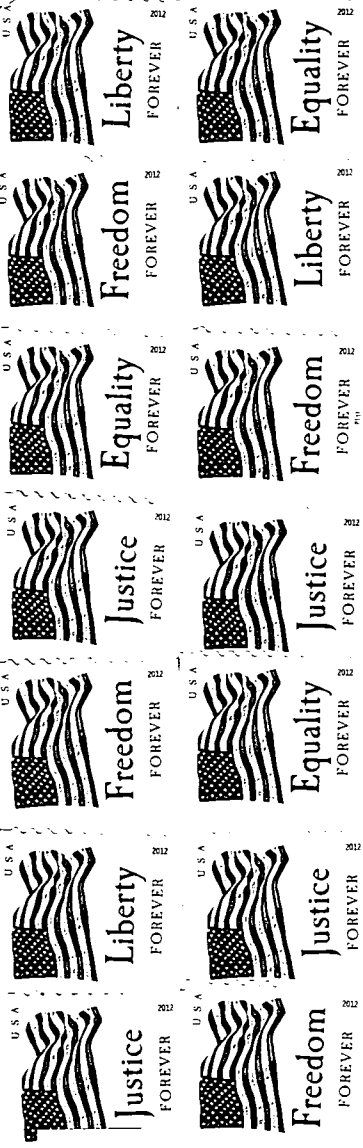
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