

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

The Honorable Marvin H. Dukes, III

Case No. 2011-CP-07-2176
Appellate Case No. 2013-000222

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MAR 17 2014

SC Court of Appeals

Bloody Point Property Owners Association, Inc., David L. Fingerhut, and Patricia M. Santry).....Respondents,

v.

William A. Ashton, Jr. and Michele C. Ashton.....Appellants.

APPELLANT'S MOTION FOR CONTINUANCE
OF ORAL ARGUMENT

Counsel for the Appellants hereby moves this Honorable Court for a continuance of the Oral Argument in this Appeal, and base this Motion on the following:

- (1) On March 14, 2014 the undersigned Appellants' counsel, James F. Berl, received the Clerk's letter dated March 12, 2014 notifying counsel of record that oral argument on this Appeal was scheduled to be heard before the Court on April 8, 2014 at 11:20 a.m.
- (2) Upon receiving the Clerk's initial letter of January 10, 2014 requesting available dates for oral arguments, the undersigned, through his Litigation Paralegal, Judith E. Conrad, contacted Ms. V. Claire Allen, Deputy Clerk, and informed her that the undersigned had a complex, four day date certain trial scheduled in the Circuit Court for Hampton County the week of April 14, 2014. Ms. Conrad was informed by Ms. Allen to put this information in a letter to her and that it should not be a problem for it to be moved to the May term of Court, which the undersigned did, by way of


the attached correspondence sent to Ms. V. Claire Allen, Deputy Clerk on January 10, 2014, and by which Appellants' counsel requested the argument of this Appeal be scheduled for the May term of Court.

- (3) The undersigned would reiterate to this Honorable Court that he has a four day, date certain trial scheduled in the Circuit Court for Hampton County the week of April 14, 2014, which case is very complex in that it involves a truck accident on Interstate 95 in Hampton County and that based thereon Appellants' counsel requested the argument of this Appeal be scheduled for the May term of Court.
- (4) In connection with the above-referenced Circuit Court case, the undersigned has video-tape, *de bene esse* trial depositions set for expert witnesses of the various parties, as well as his as trial depositions of his own client's treating medical physicians, all of which are scheduled to take place up until the trial date of April 14, 2014. In addition thereto, the undersigned has two (2) Mediation hearings scheduled, as well as a Family Court trial, the first two weeks of April.
- (5) The undersigned would also inform the Court that he and his staff are presently preparing, and continue to prepare for the above-referenced trial up until the time of the trial on April 14, 2014 such that it would be a hardship for counsel to be available for the oral argument which has been scheduled for April 8, 2014.
- (6) Having relied upon the belief that it would not be a problem for the oral argument on this Appeal to be scheduled during the May term of Court, counsel has not prepared therefor as of this date and, in all honesty, cannot adequately prepare for the same given the conflicting trial matters that are already scheduled, such that his clients will be materially prejudiced.
- (7) Counsel for the Appellants is available any dates in May other than May 8 and 9, 2014 when he is scheduled to attend his son's college graduation, and May 29 and 30, 2014, when he is scheduled to attend his niece/Goddaughter's wedding, both of which events are out of state.
- (8) Counsel for the Appellants would also inform the Court that, prior to filing this Motion, he conferred with Respondent's counsel, who has agreed to the relief requested herein by this Motion for the continuance of the oral argument on the Appeal in this case to be continued and rescheduled for the May term of Court.

Based upon all of the above, the undersigned Appellants' counsel respectfully requests this Honorable Court continue the oral argument in this Appeal from April 8, 2014 to the May term of Court.

March 14, 2014

Respectfully Submitted:



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Attorneys for Appellants

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Bloody Point Property Owners Association, Inc., David L.
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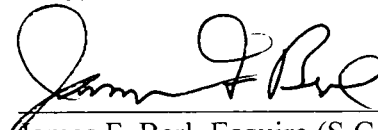
v.

William A. Ashton, Jr. and Michele C. Ashton.....Appellants.

CERTIFICATE AND PROOF OF SERVICE

I hereby certify that I have served upon the Respondents the Motion for Continuance of Oral Argument, by depositing a copy thereof in the United States Mail, postage prepaid, on March 14, 2014, addressed to: Matthew E. Tillman, Esquire, Womble, Carlyle, Sandridge & Rice, LLP, P.O. Box 999, Charleston, SC 29402, (843) 720-4629, Counsel of Record for Respondents, David L. Fingerhut and Patricia Fingerhut (a/k/a Patricia M. Santry).

March 14, 2014.



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March 14, 2014

VIA UPS OVERNIGHT DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
1205 Pendleton Street
Columbia, SC 29201

Re: Bloody Point Property Owners Association, Inc., David L. Fingerhut
and Patricia M. Santry, Respondents adv. William A. Ashton, Jr. and
Michele C. Ashton, Appellants - Appellate Case No. 2013-000222

Dear Ms. Kitchings:

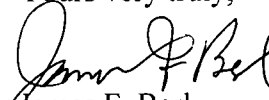
Enclosed for filing, please accept the following on behalf of the Appellants, William A. Ashton, Jr.
and Michele Ashton, in the above-referenced matter:

- 1) the original Appellant's Motion for Continuance of Oral Argument;
- 2) six copies of the Motion;
- 3) my firm's check in the amount of \$25.00, to cover the filing fee; and
- 4) Certificate and Proof of Service on the Respondents.

Please file the same and return clocked copies of the Motion and Certificate and Proof of Service to
my office in the enclosed self-addressed stamped envelope. If you have any questions, please do not
hesitate to contact me.

With kind regards, I am

Yours very truly,


James F. Berl

JFB:jec

Enclosures

cc: Matthew E. Tillman, Esquire
Womble, Carlyle, Sandridge & Rice, LLP
P.O. Box 999
Charleston, SC 29402
Counsel for Respondents

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