

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
In the Court of Common Pleas

Doyet A. Early, III, Presiding Judge

Case No. 2013-001909

William R. Ferrara Appellant,

v.

Michael E. Hunt, Sheriff of Aiken County; Aiken County Sheriff's Department; Charles Cain in his individual capacity as Deputy Sheriff; and Aiken County Sheriff's Department Respondents.

NOTICE OF MOTION AND MOTION FOR EXTENSION OF TIME ON BEHALF OF
RESPONDENT CAIN

RECEIVED

FEB 10 2014

SC Court of Appeals

Respondent Charles Cain hereby moves for an Order, pursuant to Rule 263(b), SCACR, to enlarge the time for the filing of his initial brief and designation of matter upon the following grounds;

Counsel for Respondent Cain did not receive notice of the filing of Appellant's initial brief until December 24, 2013 when he was contacted by counsel for Defendant Hunt. At that time, Counsel for Respondent Cain was on vacation and unable to file a motion to enlarge. Counsel filed a motion to enlarge at his first opportunity upon return and hand delivered a letter and filing fee on December 30, 2014 to the Court of Appeals. Counsel for Defendant Hunt did not file an objection to this requested extension.

Due to work engagements and the inclement weather, Counsel for Respondent Cain filed a second request for an additional thirty day extension on January 30, 2014. The request was hand-delivered to the Court with a twenty-five dollar motion fee on January 30, 2014. Counsel for Appellant specifically indicated that he had not objections to the requested extension.

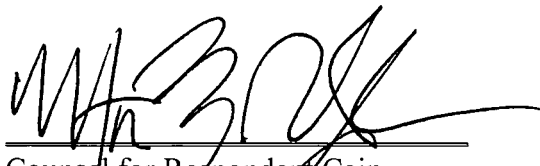
Rule 263(b), SCACR provides that the Court may extend the time for performing any act except for the filing of a notice of appeal pursuant to Rule 203 and 243. As such, the Court is within its authority to grant Respondent's requested extensions. Rule 208(a)(2), SCACR provides that respondent shall serve and file his brief "[w]ithin thirty (30) days after service of appellant's brief." In this case, counsel for Respondent Cain has not been served with a copy of Appellant's initial brief. It was only after being contacted by counsel for Respondent Hunt, in a separate appellate number but the same underlying civil case, that counsel for Respondent Cain

became aware of the filing of an initial brief by Appellant.¹ Counsel, as soon as possible, filed a request for an extension of time, despite not having been served with the initial brief on file with the Court. A second request for extension was filed with the Court upon the reopening of the Court following its closure for inclement weather.

Counsel for Respondent Cain hereby requests that the Court grant his previously requested extension and make his responsive brief due on or before February 28, 2014 as requested in his correspondence of January 30, 2014.

For these reasons and any others that may be properly presented to the Court in any hearing in regard to this motion, Respondent Cain requests that the Court grant the motion and extend his deadline for filing an initial responsive brief and designation of matter.

MBR Law, LLC



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Columbia, South Carolina
February 10, 2014

¹ Appellant has separately filed two notices of appeal regarding the dismissal of the underlying civil action. The companion appeal is 2013-00826.

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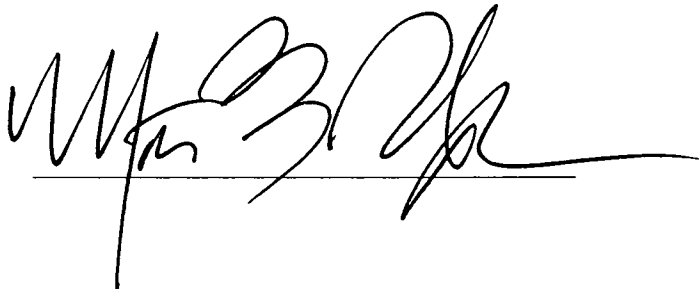
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v.

Michael E. Hunt, Sheriff of Aiken County; Aiken County Sheriff's Department; Charles Cain in his individual capacity as Deputy Sheriff; and Aiken County Sheriff's Department Respondents.

PROOF OF SERVICE

The undersigned employee of MBR Law, LLC, hereby certifies that I have served the **Notice of Motion and Motion for Extension of Time on Behalf of Respondent Cain** on counsel for Appellant Ferrara by depositing a copy of it in the United States Mail, postage prepaid, on February 10, 2014, addressed to his attorneys of record, John Bradley and S. Jahue Moore at Post Office Box 5709, West Columbia, South Carolina 29171.



February 10, 2014

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