

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

J. Ernest Kinard, Jr., Circuit Court Judge

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Case No. 2007-CP-07-02373

Court of Appeals Tracking No. 2010167969

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Matthew S. McAlhaney, ..... Respondent,

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.

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

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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 Monday, July 7, 2014.

As appears from the affidavit of Respondent's counsel, which is attached to this motion, counsel was out of his office for surgery and physical therapy, leading, upon his return, to a deluge of work. In addition, on May 18, 2014, Respondent's counsel was in

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JUN 06 2014

**SC Court of Appeals**

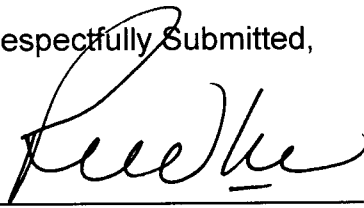
a serious traffic accident in Sullivan County, Tennessee, which resulted in multiple injuries and legal machinations that prevented counsel's return to his office for ten days, thereby inhibiting his ability to complete the brief.

Five previous extensions have been sought by the Respondent.

Upon information and belief, the attorney for the Appellant will consent 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: [rmathlaw@aol.com](mailto:rmathlaw@aol.com)

June 4, 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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**AFFIDAVIT**  
**(Robert V. Mathison, Jr.)**

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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 67 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 recently became acute.

5. As a consequence, the Affiant underwent surgery (total hip arthroplasty) by Dr. James Karegeannes at Memorial Mission Hospital in Asheville, North Carolina, on Friday, March 14, 2014, after which the Affiant undertook to convalesce and to undergo physical therapy.

6. The Affiant was cleared to drive and to return to work during the week commencing on April 7, 2014.

7. During the nearly four weeks that ensued thereafter, the Affiant was required to confront a backlog of cascading obligations in multiple cases, and the Affiant's opponent, as well as the Court of Appeals, once again proved to be accommodating .

8. However, in the last extension granted (the fourth extension), the Court of Appeals indicated that it had indulged the last such extension.

9. On Sunday, May 18, 2014, at shortly before 3:00 p.m., while driving South on Interstate 81 near Mile Marker 63 in Sullivan County, Tennessee, the Respondent's counsel ("the Affiant") was involved in an accident that resulted in the total loss of his truck, a 2007 GMC Yukon XL.

10. The truck hit an abutment and then an adjoining guardrail, so that no other vehicle was directly involved, and the Affiant, who was alone in his truck, was the only person who was injured.

11. The Affiant was treated at the emergency room at Holton Valley Medical Center in Kingsport, Tennessee, for multiple injuries, including the compound fracture of his left arm and lacerations to his head, which required more than 20 staples to close.

12. After the Affiant was admitted to the hospital, a team of physicians led by Tiffany M. Laskey, D.O., and Melissa M. Lawrence, D.O., performed surgery on the Affiant's arm, inserting what the Affiant is informed and believes is a plate and seven screws into the injured area of the arm, with the surgery concluding after midnight on Monday, May 19, 2014.

13. The Affiant was discharged from the hospital on the afternoon of the following day, but was required to remain in the area for possible treatment, as well as to recover certain personal property, such as his wallet, computer and legal papers, all of which appeared to have gone missing at the accident scene.

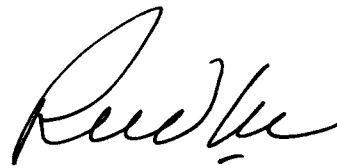
14. As a consequence of the accident, due to his injuries, as well as the pain and fatigue resulting therefrom, the Affiant was not cleared to drive and was unable to return to work until May 29, 2014.

15. The Respondent's Initial Brief and Designation of Matter would otherwise be due tomorrow, June 5, 2014.

11. The Affiant is requesting the consent to this Motion to Extend Time by the Appellant's counsel, who has heretofore been most accommodating in this matter.

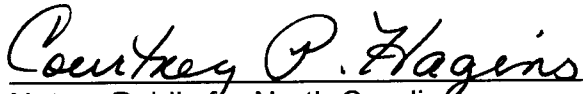
FURTHER THE AFFIANT SAYETH NOT.

FURTHER THE AFFIANT SAYETH NOT.



Robert V. Mathison, Jr.

SWORN to before me this  
4 day of June, 2014.



Notary Public for North Carolina

My Commission Expires Sept 13, 2015

<p>Courtney P. Hagins Notary Public, State of South Carolina My Commission Expires Sept. 13, 2015</p>
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**PROOF OF SERVICE**

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I, Robert V. Mathison, Jr., hereby certify that on June 4, 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 June 4, 2014, by depositing same, with sufficient 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  
Post Office Box 11629  
Columbia, SC 29211

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

A handwritten signature in black ink, appearing to read "R. Mathison, Jr.", written over a horizontal line.

Robert V. Mathison, Jr.  
Attorney for the Respondent