

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM McCORMICK COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Case No. 2013-002236

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MAY 27 2014

SC Court of Appeals

Samuel L. McPherson, as Presiding Elder of the
Abbeville-Greenwood District of the African
Methodist Episcopal (A.M.E.) Church *Appellant-Respondent*

vs.

Henry Banks, Mary Robinson, Delois Phillips,
Naomi Mattison, and Frank Mattison *Respondents-Appellants*

**RESPONDENTS-APPELLANTS' MOTION FOR LEAVE
TO FILE INITIAL APPELLATE BRIEF OF
RESPONDENTS-APPELLANTS OUT OF TIME**

COME NOW Respondents-Appellants Henry Banks, Mary Robinson, Delois Phillips, Naomi Mattison, and Frank Mattison ("Respondents-Appellants") and respectfully request this Court that they be allowed the opportunity to file their Initial Appellate Brief of Respondents-Appellants (attached hereto as Exhibit A) out of time, and Respondents-Appellants' Designation of Additional Matters to Be Included in the

(Handwritten initials)

Record on Appeal (attached hereto as Exhibit B) out of time for each of the following reasons:

1. On October 15, 2013, Appellant-Respondent Samuel L. McPherson, as Presiding Elder of the Abbeville-Greenwood District of the African Methodist Episcopal ("AME") Church ("Appellant-Respondent") filed his Notice of Appeal, stating his intention to appeal the June 27, 2013 Order and Judgment by the McCormick County Court of Common Pleas (the "trial court") and other trial court orders.

2. On October 16, 2013, Respondents-Appellants filed a Cross-Appeal on the ground that the trial court erred in its June 27, 2013 Order when it ordered that the Appellant-Respondent holds equitable title to a certain acre tract of land.

3. On October 30, 2013, the Clerk of the South Carolina Court of Appeals recognized the filing of multiple notices of appeal in this matter pursuant to Rule 206, SCRAP. At that time, the Clerk's Office informed the parties that the "appeals will be consolidated for consideration by the Court" and that the Court of Appeals anticipated receiving one Record on Appeal. (Ltr. from Clerk's Office to Mr. Randall Rosel Williams & Mr. Marvin R. Watson, Oct. 30, 2013, attached hereto as Ex. C.) In addition, the parties were informed that Mr. McPherson, the party filing the first Notice of Appeal, was responsible for the Record on Appeal. The Plaintiff below was thereafter designated as "Appellant-Respondent." (Ex. C, at 1.) The former

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Defendants, who filed the second Notice of Appeal, were designated as the "Respondents-Appellants." (Ex. C, at 2.)

4. After the correspondence from the Clerk of the Court's Office, it was Respondents-Appellants' belief that the Cross-Appeals had been consolidated. This was reinforced by the knowledge that there would be only one Record on Appeal. Additionally, Rule 206, SCACR, which discusses cases involving multiple notices of appeal, does not specifically address the timing of brief filings in the case of cross-appeals. Respondents-Appellants thereafter believed that their Response Brief to the Initial Appellate Brief of Appellant-Respondent would be consolidated with their initial appellate argument into one brief and filed 30 days after the Initial Brief of Appellant-Respondent.

5. Accordingly, on May 20, 2014, Respondents-Appellants filed Respondents-Appellants' Response Brief and Initial Cross-Appeal. Respondents-Appellants misinterpreted the SCACR Rules and the Clerk of the Court's communication and were confused about the order in which their briefs were to be filed.

6. It has now been clarified by the Office of the Clerk of the South Carolina Court of Appeals that Respondents-Appellants should have filed a separate Initial Appellate Brief of Respondents-Appellants on the issue of their appeal, on the same date as the Initial Appellate Brief of the Appellant-Respondent. Respondents-



Appellants regret any inconvenience that this misunderstanding may cause to the Court or to Appellant-Respondent.

7. Respondents-Appellants, therefore, respectfully request that they be permitted to file their Initial Appellate Brief of Respondents-Appellants at this time. A copy of the Initial Appellate Brief of Respondents-Appellants and a copy of Respondents-Appellants' Designation of Additional Matters to Be Included in the Record on Appeal are attached hereto as Exhibits A and B, respectively, for the Court's review and consideration. The arguments in the Initial Appellate Brief of Respondents-Appellants are identical to the cross-appeal argument in the brief filed by Respondents-Appellants on May 20, 2014.

8. Appellant-Respondent received substantial extensions of time within which to file the Initial Appellate Brief of Appellant-Respondent due to complications with his record designations. It is not anticipated that Respondents-Appellants' Motion to File Initial Appellate Brief of Respondents-Appellants will cause any prejudice or hardship to Appellant-Respondent.

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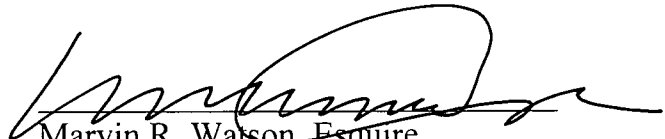
WHEREFORE, Respondents-Appellants respectfully request this Court to grant this Motion for Leave to File Initial Appellate Brief of Respondents-Appellants out of Time, to enter an Order allowing the filing of the attached Initial Appellate Brief at this time, and to grant whatever further relief the Court deems just and proper at this time.

Dated: May 22, 2014

Respectfully submitted,

WATSON LAW FIRM, P.A.

By:



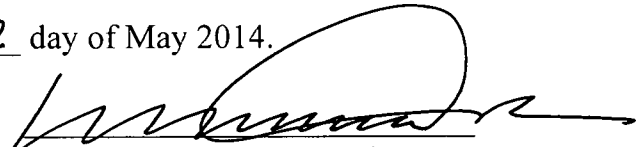
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Attorney for Respondents-Appellants



CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing Respondents-Appellants' Motion for Leave to File Initial Appellate Brief of Respondents-Appellants out of Time to be mailed, first-class postage prepaid, to Randall R. Williams, Esquire, 110 Riley Avenue, Post Office Box 3461, Greenwood, South Carolina 29648-3461, on this 22 day of May 2014.


Marvin R. Watson, Esquire

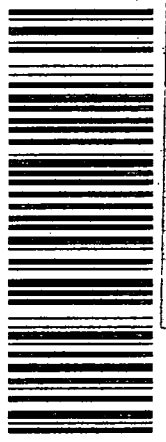
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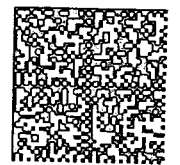
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