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July 23, 2014

The Honorable Jenny Abbott Kitchings
Clerk of Court
S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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S.C. Supreme Court

Re: Breakfield, as Attorney-in-Fact v. Woods
Trial Court Case No. 2011-CP-12-0291
Court of Appeals Case No. 2012-212318
Supreme Court Case No. 2014-001039
Our File No. 12085.3

Dear Ms. Kitchings:

I represent the Respondent Breakfield, and I write in response to the Appellant's motion to recall the Remittitur. To my knowledge there is no appellate court rule governing such a motion. It appears to me that the motion is premature because of the status of the proceeding in the Supreme Court. The procedural posture of the case is as follows.

The Circuit Court's Order affirming the Magistrate's Court's Order was affirmed by the Court of Appeals in its per curiam Unpublished Opinion No. 2014-UP-076, filed February 26, 2014. The Appellant's Petition for Rehearing was denied by Order filed April 24, 2014. Appellant moved the Supreme Court for an extension of time to file and serve his Petition for Writ of Certiorari and the Appendix. By Order dated May 16, 2014, the deadline for filing a Petition for Writ of Certiorari and Appendix was extended through June 21, 2014. Because June 21 was a Saturday, Appellant's filing deadline was extended to June 23 pursuant to Rule 263(a), SCACR.

On June 27, 2014, having not received a Petition for Writ of Certiorari and Appendix, the Supreme Court issued an Order dismissing the matter. The Court of Appeals issued and sent its Remittitur to the Circuit Court on June 27, 2014.

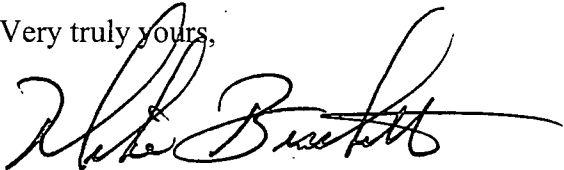
On July 3, 2014 Appellant's Petition and Appendix were delivered to the Supreme Court by United States Postal Service delivery. By letter to the Appellant dated July 7, 2014, the Clerk of Court advised Appellant of the dismissal and returned his filing fee. By letter dated July 11, 2014

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the Clerk of Court, in response to Appellant's July 7 letter, advised the Appellant that United States Postal Service records indicated that he had not timely mailed/filed the Petition and Appendix and for that reason the matter had been dismissed. On July 14, 2014, Appellant filed his motion to reinstate appeal with the Supreme Court. On July 16, Appellant filed his motion to recall Remittitur in the Court of Appeals.

Respondent's Return to the motion to reinstate appeal has been filed and served, and I assume that the Supreme Court will decide the matter promptly. I do not see how recalling the Remittitur at this time affects anything.

Very truly yours,



B. Michael Brackett

cc. Honorable Daniel E. Shearouse ✓
Robert H. Breakfield, Esquire
Mell Woods

