

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM YORK COUNTY  
Court of Common Pleas

S. Jackson Kimball, Special Circuit Court Judge

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Appellate Case No. 2014-000606  
Circuit Court Case No. 2013-CP-46-01569

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SEP 22 2014

SC Court of Appeals

73354

In the Matter of: Estate of James D. Rucker, Jr.  
In Re: James D. Rucker, Jr., Trust, Marian Shamu, James F. Rucker, Sr.,  
Endowed Scholarship Fund, Howard University School of Dentistry, Mt. Prospect  
Baptist Church, Frances Julie Buchanan and Benedict College, ..... Respondents,

v..

Tanzella Gaither, ..... Appellant,

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MOTION TO WITHDRAW APPEAL

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Now Comes Appellant Tanzella Gaither, by and through her undersigned counsel, and moves the Court, pursuant to SCACR 260(c), for a voluntary dismissal of her appeal upon such terms as may be fixed by the Court. As grounds, Appellant respectfully submits the following:

1. On March 18, 2014, Appellant submitted for filing her Notice of Appeal in the within action. Pursuant to Rules 208 and 209, South Carolina Appellate Court Rules, Appellant's Initial Brief and Designation of Matter were due on or before July 28, 2014. Upon Motion of the Appellant, this Court issued its Order filed August 1, 2014, extending the time to August 27, 2014, for filing the Initial Brief of the Appellant and Designation of Matter.

2. Appellant has determined that it would not be feasible to proceed with the process and desires to voluntarily withdraw her appeal.

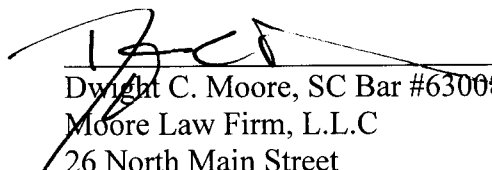
3. Appellant's counsel has fully explained the current status of her case, the ramifications of withdrawing her appeal, the fact that her appeal is pending and that counsel is willing to proceed with the appeal on her behalf. Appellant acknowledges that she has been fully apprised of her rights, that she understands the facts of the matter, and that she voluntarily and knowingly asks that counsel file a Motion to Withdraw her Appeal. Furthermore, Appellant personally consents to and joins in this Motion.

4. Appellant respectfully shows that the Respondents have been served with only the Notice of Appeal and her Motion for Extension of Time, that no responsive pleadings have been filed on their part which would require any assessment of costs under Rule 222, SCACR. Appellant asserts that none of the parties to the appeal would suffer harm or undue inconvenience should the Court grant her request for a dismissal of the appeal.

WHEREFORE, Appellant prays that this Court issue its Order determining that no costs shall be assessed and granting a voluntary dismissal of the pending appeal.

MOORE LAW FIRM, L.L.C.

August 15 2014

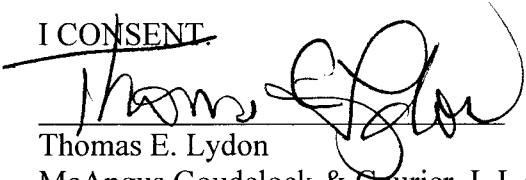
  
Dwight C. Moore, SC Bar #63008  
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Attorney for Appellant

I, Tanzella Gaither, the Appellant in the within case, consents to and joins in the foregoing Motion, made at my request, to voluntarily dismiss my appeal that is currently pending in the South Carolina Court of Appeal.

August 19, 2014

  
Tanzella Gaither

~~I CONSENT~~

  
Thomas E. Lydon  
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Attorney for Respondents

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM YORK COUNTY  
Court of Common Pleas

JUL 27 2014

S. Jackson Kimball, Special Circuit Court Judge SC Court of Appeals

Appellate Case No. 2014-000606  
Circuit Court Case No. 2013-CP-46-01569

In the Matter of: Estate of James D. Rucker, Jr.  
In Re: James D. Rucker, Jr., Trust, Marian Shamu, James F. Rucker, Sr., Endowed  
Scholarship Fund, Howard University School of Dentistry, Mt. Prospect Baptist Church,  
Frances Julie Buchanan and Benedict College, ..... Respondents,

v..

Tanzella Gaither, ..... Appellant.

PROOF OF SERVICE

I certify that I have served the documents described below upon Marian Shamu, as Personal Representative of the Estate of James D. Rucker, Jr., on August 26, 2014, by depositing a copy of the said document in the United States Mail, postage prepaid, addressed to Respondent's attorneys of record as follows:

**DOCUMENT(S) SERVED:** Motion To Withdraw Appeal  
Proof of Service

**PERSON(S) SERVED:** Thomas E. Lydon, Esquire  
McAngus Goudelock & Courie, L.L.C.  
1320 Main Street, 10<sup>th</sup> Floor  
P. O. Box 12519  
Columbia, SC 29211

Angela M. Kirby, Esquire  
Kirby Law, LLC  
1531 Laurel Street  
Columbia, SC 29201

August 26, 2014

MOORE LAW FIRM, L.L.C.



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Attorney for Appellant

**Moore Law Firm, L.L.C.**

August 26, 2014

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

**RECEIVED**  
AUG 27 2014  
**SC Court of Appeals**

**Dwight C. Moore**  
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VIA FEDERAL EXPRESS

Re: In the Matter of: Estate of James D. Rucker, Jr., etc., et al. v. Tanzella Gaither  
Appellate Case No.: 2014-000606  
Circuit Court Case Number: 2013-CP-46-01569  
Moore File Number: 3649.4

Dear Ms. Kitchings:

Enclosed for the Court's consideration are the original and six copies of Appellant's Motion to Withdraw Appeal in the above-referenced case along with the original and six copies of the Proof of Service and Moore Law Firm Check in the amount of \$25.00 for the filing fee.

Also enclosed is a seventh copy of the Motion and Proof of Service. Please have the copies file-stamped and returned to this office in the self-addressed, postage prepaid envelope provided.

Under cover of a copy of this letter, Opposing Counsel are being served with copies of the Motion and Proof of Service. Thank you for your consideration and cooperation in this matter.

Yours very truly,

*Dwight C. Moore*

Dwight C. Moore  
DCM:dmm  
Enclosures

c: Thomas E. Lydon, Esquire  
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The Honorable Jenny Abbott Kitchings  
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Page 2

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