

IN THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM ORANGEBURG COUNTY

Honorable Edgar Warren Dickson, Chief Administrative Judge, Presiding

CASE NO.: 2011-CP-38-1379

APPELLATE CASE NO.: 2014-000168

William Breland,

Respondent,

-vs-

South Carolina Department of Transportation,

Appellant.

**NOTICE OF MOTION AND MOTION
FOR DELAY OF BRIEFING
SCHEDULE AND ALLOWANCE
TO ORDER ADDITIONAL POST
TRIAL MOTION TRANSCRIPT**

YOU WILL PLEASE TAKE NOTICE That the Appellant will move before the Court on the 10th day after service hereof, or as soon thereafter as counsel may be heard, for a delay in the briefing schedule pursuant to Rule 263(b), SCACR, and an Order allowing Appellant to order an additional transcript not previously sought, due to inadvertent error, and an Order allowing an extension of time to file Appellant's Initial Brief and Designation of Matter, pending receipt of the additional transcript of the post trial motions.

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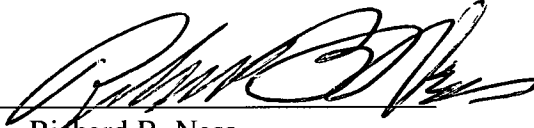
SEP 08 2014

SC Court of Appeals

173458

Appellant's counsel has discussed this with Respondent's counsel, John Nichols, who advised verbally that he consents to this request to order the additional transcript and for extending the time for briefing.

NESS & JETT, LLC

BY: 

Richard B. Ness
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Bamberg, SC

September 5, 2014

OTHER COUNSEL OF RECORD:

John S. Nichols, Esq.
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Attorneys for Respondent

IN THE STATE OF SOUTH CAROLINA

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Honorable Edgar Warren Dickson, Chief Administrative Judge, Presiding

CASE NO.: 2011-CP-38-1379

APPELLATE CASE NO.: 2014-000168

William Breland,

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-vs-

South Carolina Department of Transportation,

Appellant.

**MEMORANDUM IN SUPPORT OF
MOTION FOR DELAY OF BRIEFING
SCHEDULE AND ALLOWANCE
TO ORDER ADDITIONAL POST
TRIAL MOTION TRANSCRIPT**

Appellant moves the Court for a delay in the briefing schedule pursuant to Rule 263(b), SCACR, and an Order allowing Appellant to order an additional transcript not previously sought, due to inadvertent error, and an Order allowing an extension of time to file Appellant's Initial Brief and Designation of Matter, pending receipt of the additional transcript of the post trial motions.

Appellant has requested and received the Summary Judgment hearing transcript and the trial transcript, but failed to order post trial motion transcript from a separate court reporter, due to inadvertence, thinking the trial court reporter was the same as the post trial motion court reporter, and having ordered the entire trial transcript from the trial court reporter.

Appellant's counsel has discussed this with Respondent's counsel, John Nichols, who advised verbally that he consents to this request to order the additional transcript and for extending the time for briefing.

NESS & JETT, LLC

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September 5, 2014

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IN THE STATE OF SOUTH CAROLINA

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Honorable Edgar Warren Dickson, Chief Administrative Judge, Presiding

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PROOF OF SERVICE

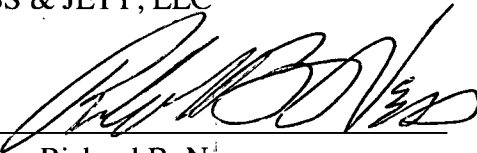
I certify that I have served the Notice of Motion and Motion for Delay in Briefing Schedule and Allowance to Order Additional Post Trial Motion Transcript thereon on counsel for Respondent, William Breland, and all other counsel of record, by depositing a copy of it in the United States Mail, postage prepaid, on September 5, 2014, addressed to the persons below-listed:

John S. Nichols, Esq.
P. O. Box 7965
Columbia, SC 29202

J. Christopher Wilson, Esq.
Daniel W. Luginbill, Esq.
P. O. Box 1150
Bamberg, SC 29003
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Respectfully Submitted,

NESS & JETT, LLC

BY: 

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September 5, 2014

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*CERTIFIED CIRCUIT COURT MEDIATOR

ALISON DENNIS HOOD
ADAM C. NESS

JULIUS B. NESS
1916-1991

September 5, 2014

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

RECEIVED

SEP 08 2014

SC Court of Appeals

Re: William Breland v. SCDOT
Appellate Case No.: 2014-000168

Dear Ms. Kitchings:

Please find enclosed the original and six copies of a Notice of Motion and Motion and Memorandum in Support of Motion for Delay in Briefing Schedule and Allowance to Order Additional Post Trial Motion Transcript. Through oversight, we ordered only the Summary Judgment transcript and the entire three day trial transcript. We erred in thinking the post trial motion court reporter was the same as the trial court reporter. Upon reviewing the trial transcript, we have realized the post trial motions were not heard by that court reporter and were, in fact, heard by a different court reporter.

We are requesting a delay of the briefing schedule to be allowed to order and receive the post trial motion transcript, which is most likely necessary for us to complete the Brief.

Due to this inadvertence, we do not have the post trial motion transcript because it was argued at a date later than the conclusion of the trial.

Please advise regarding the motion as soon as possible so we will know for sure that the briefing schedule is hereby altered to allow us to order the transcript.

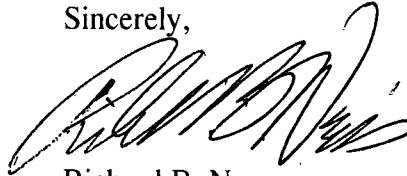
I look forward to hearing from you as soon as possible.

I am enclosing the Notice of Motion and Motion and Memorandum in Support of Motion for Delay in Briefing Schedule and Allowance to Order Additional Post Trial Motion Transcript, Proof of Service, and a check for \$25.00 for the filing fee. I thank you for your prompt attention to this matter.

Jenny Abbott Kitchings, Clerk of Court
S. C. Court of Appeals
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September 5, 2014

Appellant's counsel has discussed this with Respondent's counsel, John Nichols, who advised verbally that he consents to this request to order the additional transcript and for extending the time for briefing.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard B. Ness", written in a cursive style.

Richard B. Ness

RBN/dlh

Enclosures

cc: S. C. Office of Court Administration
J. Christopher Wilson, Esq. (Via Hand Delivery)
Daniel W. Luginbill, Esq. (Via Hand Delivery)
John S. Nichols, Esq.