

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

OCT 01 2014

**SC Court of Appeals**

173716

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge  
Case No. 2013-CP-10-4366

Appellate Case No. 2014-001963

BTM Machinery, Inc.,.....Respondent,

v.

Michael J. Finley, Finley & Associates,  
LLC, Kathryn A. Finley, Wilbur  
Ross McMillan, Jr. and 4M Iron, LLC,.....Defendants,

of whom Michael J. Finley is the.....Appellant.

**MOTION FOR EXTENSION OF TIME TO FILE INTIAL BRIEF**

Appellant Michael J. Finley, by and through the undersigned counsel, submits the instant Motion for Extension of Time to File Initial Brief pending receipt of all relevant trial court transcripts. The grounds for extension are as follows.

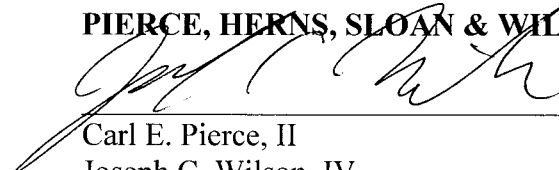
This appeal challenging an award of attorney and expert fees stems from a year-and-a-half long dispute regarding the production of electronically stored information contained on Appellant's computer. During that time frame, hearings regarding the production were conducted on July 29, 2013, October 7, 2013 and June 13, 2014. Appellant is in receipt of hearing transcripts for the July 29, 2013 and June 13, 2014 hearings. However, Appellant has

requested, but is not yet in possession of the October 7, 2013 hearing transcript, which contains much of the relevant testimony and facts framing the basis Appellant's the appeal.

Due to an administrative error, the request for the October 7, 2013 transcript was initially made with the incorrect court reporter. Unfortunately, it wasn't until after the ten day deadline governing the ordering of transcripts that this mistake was discovered. See provided by Rule 207(a)(1). Upon learning of the mistake, however, the request was reissued with the correct court reporter on September 26, 2014, approximately six days after the ten day deadline of Rule 207(a)(1). (See Exhibit "A", Letter to Court Administration, dated Sept. 26, 2014). Given that this transcript is essential to the issues anticipated to be raised on appeal, Appellant respectfully requests that the Court grant an extension of thirty (30) days from the date of receipt of the remaining transcript. This extension will not likely interfere with any rights of the Respondent.

Respectfully submitted,

**PIERCE, HERNS, SLOAN & WILSON, LLC**



---

Carl E. Pierce, II  
Joseph C. Wilson, IV  
Kristen B. Fehsenfeld  
321 East Bay Street  
Post Office Box 22437  
Charleston, SC 29401  
(843) 722-7733

*Attorneys for Appellant Michael J. Finley*

September 29, 2014

Other Counsel of Record:

K. Douglas Thornton, Esquire  
Thornton Law, LLC  
1025 Third Avenue  
Conway, South Carolina 29526  
(843)488-5858  
kdouglasthornton@gmail.com  
*Attorney for Respondent BTM Machinery, Inc.*

Brian C. Duffy  
Duffy & Young, LLC  
98 Broad St.  
Charleston, South Carolina 29401  
bduffy@duffyandyoung.com  
*Attorney for Respondent BTM Machinery, Inc.*

Fleet Freeman  
Beth Santilli  
Law Offices of Fleet Freeman, LLC  
941 Houston Northcutt Blvd, Suite 204  
Mt. Pleasant, SC 29464  
(843)216-0009  
ffreeman@fflawfirm.com  
*Attorney for Ross McMillian Jr. and 4 M Iron, LLC*

CARL E. PIERCE, II  
LOUIS P. HERNS  
ALLAN P. SLOAN, III \*♦  
JOSEPH C. WILSON, IV †  
JAMES G. KENNEDY  
WILLIAM P. EARLY

# PIERCE, HERNS, SLOAN & WILSON, LLC

ATTORNEYS AND COUNSELORS AT LAW

THE BLAKE HOUSE • 321 EAST BAY STREET  
CHARLESTON, SOUTH CAROLINA 29401

POST OFFICE BOX 22437  
CHARLESTON, SOUTH CAROLINA 29413

(843) 722-7733  
(843) 722-7732 FAX  
www.phswlaw.com

M. TODD RAINSFORD  
SONALY K. HENDRICKS  
KRISTEN B. FEHSENFELD  
CHRISTINA VON ZIELINSKI  
RYAN K. MILLER  
WHIDBEE S. PERRIN  
BENJAMIN C. SMOOT, II

\* MEMBER SC & FL BAR  
♦ CERTIFIED SC CIRCUIT  
COURT MEDIATOR  
† MEMBER SC, FL & GA BAR

Direct Dial: (843) 725-7726  
Email: [kellyforrester@phswlaw.com](mailto:kellyforrester@phswlaw.com)

September 26, 2014

Mona Manley  
Circuit Court Reporter  
PO Box 4516  
Beaufort, SC 29906-4516

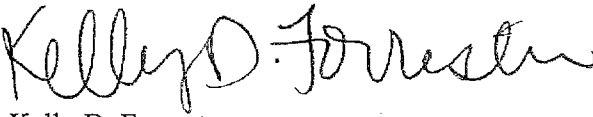
Re: *BTM Machinery, Inc., v. Michael J. Finley, et. al.*  
Case No.: 2013-CP-10-04366  
PHSW File No.: D2544.00

Dear Ms. Manley:

Our office requests a copy of the transcript of the hearing held before Judge Nicholson on October 7, 2013 in the above referenced case. Pursuant to Rule 207, SCACR, I am copying all counsel, the Office of Court Administration, and the clerk of the appellate court.

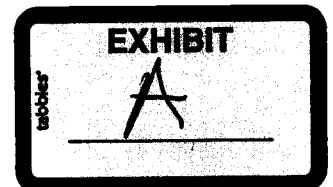
Please give me a call should you have any questions or concerns.

With kind regards,

Sincerely,  
  
Kelly D. Forrester  
Paralegal to Joseph C. Wilson

JCW/kdf

cc: Fleet Freeman, Esq.  
Douglas K. Thornton, Esq.  
Desiree Allen, Court Reporter Manager



Jenny Abbott Kitchings, Clerk of Court for S.C. Court of Appeals

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

---

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge  
Case No. 2013-CP-10-4366

---

Appellate Case No. 2014-001963

---

BTM Machinery, Inc.,

Respondent,

v.

Michael J. Finley, Finley & Associates,  
LLC, Kathryn A. Finley, Wilbur  
Ross McMillan, Jr. and 4M Iron, LLC,

Appellant.

---

**PROOF OF SERVICE**

---

I certify that I have served all counsel of record a copy of Appellant Michael J. Finley's Motion for Extension of Time to File Initial Brief via United States Mail, postage prepaid on 9/29, 2014.

**PIERCE, HERNS, SLOAN & WILSON, LLC**



Carl E. Pierce, II  
Joseph C. Wilson, IV  
Kristen B. Fehsenfeld  
321 East Bay Street  
Post Office Box 22437  
Charleston, SC 29401  
(843) 722-7733

*Attorneys for Appellant Michael J. Finley*

9/29 2014  
Charleston, South Carolina

**RECEIVED**

OCT 01 2014

**SC Court of Appeals**

# PIERCE, HERNS, SLOAN & WILSON, LLC

ATTORNEYS AND COUNSELORS AT LAW

THE BLAKE HOUSE • 321 EAST BAY STREET  
CHARLESTON, SOUTH CAROLINA 29401

POST OFFICE BOX 22437  
CHARLESTON, SOUTH CAROLINA 29413

(843) 722-7733

(843) 722-7732 FAX

www.phswlaw.com

September 29, 2014

M. TODD RAINSFORD  
SONALY K. HENDRICKS  
KRISTEN B. FEHSENFELD  
CHRISTINA VON ZIELINSKI  
RYAN K. MILLER  
WHIDBEE S. PERRIN  
BENJAMIN C. SMOOT, II

CARL E. PIERCE, II  
LOUIS P. HERNS  
ALLAN P. SLOAN, III \*♦  
JOSEPH C. WILSON, IV †  
JAMES G. KENNEDY  
WILLIAM P. EARLY

\* MEMBER SC & FL BAR  
♦ CERTIFIED SC CIRCUIT  
COURT MEDIATOR  
† MEMBER SC, FL & GA BAR

Direct Dial: (843) 725-7726  
Email: [kellyforrester@phswlaw.com](mailto:kellyforrester@phswlaw.com)

Jenny Abbott Kitchings  
Clerk of Court, SC Court of Appeals  
P.O. Box 11629  
Columbia, SC 29201

Re: *BTM Machinery, Inc. v. Michael J. Finley, et al.*  
PHSW File No. D2544.00

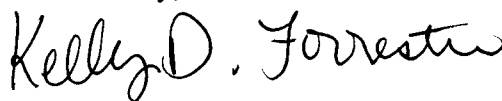
Dear Ms. Kitchings:

Enclosed, please find the original and seven (7) copies of the Motion for Extension of Time to File Initial Brief by Appellant Michal J. Finley. Please file the original with the court and return a clocked-in copy via the enclosed self-addressed envelope. I have also included filing fees.

Should you have any questions or concerns, please do not hesitate to contact our office.

Kind regards,

Yours truly,



Kelly D. Forrester  
Paralegal to Joseph C. Wilson, IV

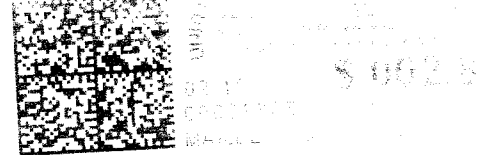
Enclosures

cc: Fleet Freeman, Esq.  
Douglas K. Thornton, Esq.  
Brian C. Duffy, Esq.

**RECEIVED**

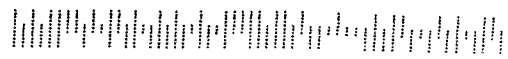
OCT 01 2014

**SC Court of Appeals**



Jenny Abbott Kitchings  
Clerk of Court, SC Court of Appeals  
P.O. Box 11629  
Columbia, SC 29201

**RECEIVED**  
OCT 01 2014  
**SC Court of Appeals**



2