

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Charleston County
Court of Common Pleas

Mikell R. Scarborough, Master-in-Equity

Appellate Case No. 2014-001273
Circuit Court Case No. 2012-CP-10-8447

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DEC 30 2014

SC Court of Appeals

Montclair Property Owners Association, Inc. and Montclair
Property Owners Association Board of Directors for and on
behalf of all owners of the Montclair Horizontal Property
Regime, as assignees of Montclair Associates Limited
Partnership, Cremco, LLC and Montclair Homes, LLC,

Respondents,

v.

Church Creek Construction, LLC,

Appellant.

**RESPONDENTS' THIRD MOTION
FOR EXTENSION OF TIME
TO FILE AND SERVE INITIAL BRIEF
AND DESIGNATION OF MATTER**

*****NOTE: APPELLANT DOES NOT OBJECT TO THIS MOTION*****

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA
COURT OF APPEALS

COME NOW Respondents above named, by and through their undersigned counsel, pursuant to Rules 240 and 263, SCACR, and, upon the grounds set forth herein, move this Honorable Court for a 10-day extension of Respondents' present deadline (which is January 7, 2015) to file and serve their initial brief and corresponding designation of matter to be included in the record on appeal.

1. Appellant served its initial brief on October 7, 2014, making the deadline for Respondents' initial brief and designation of matter November 6, 2014, pursuant to Rules 208(a)(2) and 209(a), SCACR.

2. By Orders of this Court dated November 12, 2014, and December 17, 2014, Respondents' deadline for filing and serving their initial brief and designation of matter was extended. As established by the most recent of these Orders, the present deadline is January 7, 2015.

3. The undersigned is, of course, aware that the Court's December 17, 2014, Order advised that "[n]o further extensions will be granted absent extraordinary circumstances," and the undersigned does not make the instant motion lightly.

4. Rather, and, to be sure, the undersigned makes this motion most respectfully—indeed, most humbly—submitting that the relief requested

herein is consistent with the interests of justice, will not cause any material delay of this matter, and will not prejudice Appellant.

5. Prior to making this motion, the undersigned consulted with Appellant's counsel C. Mitchell Brown, Esquire, who has kindly authorized the undersigned to represent to the Court that **Appellant has no objection to the extension of time requested herein.**

6. Appellant's initial brief is just over 35 pages, and it contains a number arguments. It has become apparent to the undersigned that the abbreviated work schedule and time commitments (both work-related¹ and non-work-related) in this holiday season have made preparation of Respondents' initial brief and designation of matter considerably more difficult than it otherwise would be—and, candidly, more difficult than the undersigned expected when the extension of time to the present January 7, 2015, deadline was sought.

7. The undersigned would also note that an extension of ten (10) additional days is sought herein in view of counsel's schedule after January 6, 2015, which includes oral argument in our State's Supreme Court on January 13 and mediations on January 14 and 15. Nonetheless, to the extent

¹ With respect to work-related time commitments, the undersigned would note that he will need to be in Atlanta, Georgia, on January 5-6, 2015, for another matter.

that the Court is not inclined to grant the 10-day extension requested herein, but would be inclined to grant a smaller allowance of time, an extension of even two (2) days' time, i.e., from Wednesday, January 7 to Friday, January 9, would be of considerable benefit.

WHEREFORE, Respondents move this Honorable Court for a 10-day extension (from January 7, 2015) of their deadline to file and serve their initial brief and designation of matter; or, alternatively, a 2-day extension (from January 7, 2015). If the Court grants the requested extension, the new deadline for the Respondents' initial brief and designation of matter will be Tuesday, January 20, 2015 (because the 10th day would fall on Saturday, January 17 and Monday, January 19, 2015, is the Martin Luther King, Jr. Day Holiday²), or, alternatively, Friday, January 9, 2015, according to the undersigned's calculations. Lastly, Respondents request that the Court hold their present deadline for initial briefing/designation of matter in abeyance until it acts upon this motion.

<SIGNED ON THE FOLLOWING PAGE>

² See Rule 263(a), SCACR (addressing computation of time).

Respectfully submitted,

YOUNG CLEMENT RIVERS, LLP

By: 

Stephen L. Brown (SC Bar No 66468)

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Attorneys for Respondents

Charleston, South Carolina

Dated: 12/30/14

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I, Russell G. Hines, of Young Clement Rivers, LLP, do hereby certify that a copy of the **Respondents' Third Motion for Extension of Time to File and Serve Initial Brief and Designation of Matter** was sent to all counsel of record via United States Mail, postage pre-paid, on December 30, 2014, addressed as follows:

C. Mitchell Brown, Esquire
Elizabeth Herlong Brogdon, Esquire
Miles E. Coleman, Esquire
Brian P. Crotty, Esquire
NELSON MULLINS RILEY & SCARBOROUGH, LLP
1320 Main Street, 17th Floor
Columbia, SC 29201

-and-

Thomas H. Hesse, Esquire
PRATT-THOMAS WALKER, PA
P.O. Drawer 22247
Charleston, SC 29413-2247

Attorneys for Appellant

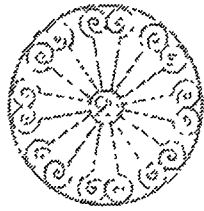
Respectfully submitted,

YOUNG CLEMENT RIVERS, LLP

By: 
Russell G. Hines (SC Bar No 72100)

Charleston, South Carolina

Dated: 12/30/14



YCR LAW
Young Clement Rivers, LLP

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December 30, 2014

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SC Court of Appeals

VIA U.S. MAIL & FACSIMILE

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

Re: Montclair Property Owners Assoc., Inc. et al. v. Church Creek Construction, LLC
Appellate Case No. 2014-001273
Circuit Case No.: 2012-CP-10-8447
YCR File 13752-20081514

Dear Ms. Kitchings:

Enclosed for filing in the above-referenced matter, please find the original and seven (7) copies of **Respondents' Third Motion for Extension of Time to File and Serve Initial Brief and Designation of Matter** and the original and one (1) copy of a **Proof of Service** for the same. Also enclosed is our firm's check in the amount of \$25.00 for the motion filing fee. Kindly return a stamped copy of each document to me in the envelope provided.

Most respectfully, to the extent that it may be possible, in light of the time-sensitive nature of the relief requested in this motion (to which Appellant does not object), I would very much appreciate the motion being presented to the Court for its consideration at its earliest convenience.

With best wishes and kindest regards, I am

Sincerely,

YOUNG CLEMENT RIVERS, LLP

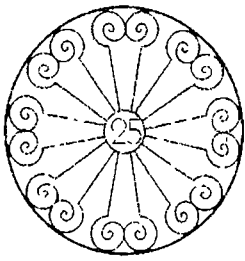

Russell G. Hines

RGH/amj
Enclosures

cc: (all below via U.S. Mail & e-mail)
C. Mitchell Brown, Esquire, Nelson, Mullins, Riley & Scarborough, LLC
Elizabeth Herlong Brogdon, Esquire, Nelson, Mullins, Riley & Scarborough, LLC

Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
December 30, 2014
Page 2 of 2

Miles E. Coleman, Esquire, Nelson, Mullins, Riley & Scarborough, LLC
Brian P. Crotty, Esquire, Nelson, Mullins, Riley & Scarborough, LLC
Thomas H. Hesse, Esquire, Pratt-Thomas Walker, PA



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To: 18037341839
From: KBarnes@ycrlaw.com
Date: December 30, 04 22:53 PM EST
Subj: Montclair Property Owners Assoc. v Church Creek, et al, Case No.2014-001273
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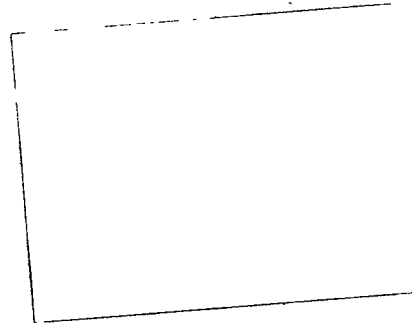
SC Court of Appeals

Ms Kitchings,

Attached please find correspondence and filings in the above referenced matter. The originals have been placed in the mail.

Thanks,

Katy B Barnes
Commercial Litigation Secretary
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