

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas  
Honorable Marvin H. Dukes, III  
Master in Equity and Special Circuit Court Judge

RECEIVED

JUN 17 2015

SC Court of Appeals

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Case No. 2011-CP-07-01778

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Benjamin Gecy,

Appellant,

vs.

South Carolina Bank & Trust, Jaime Hamner and  
Deborah Hamner,

Respondents,

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**RESPONDENT SCB&T'S RETURN TO PETITION FOR EXTENSION OF TIME TO  
FILE APPELLANT'S INITIAL BRIEF AND DESIGNATION OF MATTER**

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The Respondent, South Carolina Bank & Trust, ("Respondent"), opposes Appellant's Third Petition for Extension of Time to file Appellant's Initial Brief and Designation of Matter. Furthermore, Appellant's counsel's certification that states, "Upon information and belief, the attorneys for Respondents do not object to this Motion," is not accurate. Appellant's Counsel has not contacted Respondent SCB&T's counsel at any time during this pending of this appeal.

This matter was originally filed in the Circuit Court on September 15, 2011. After a lengthy automatic stay issued in Appellant's federal Bankruptcy Court matter, Summary Judgment was granted in favor of Respondents on June 5, 2014. The Trial Court later denied Appellant's Motion

for Reconsideration on September 18, 2014 and this Appeal followed on December 18, 2014. This litigation is of substantial age and has a substantial history of delays.

#### Appellant's Motion for Stay

Appellant has requested and received two (2) thirty (30) day extensions to file the Initial Brief and Designation of Matter. The initial extension cited the basis for the extension "the press of other matters, including an appeal." Appellant's second request for an extension dated May 11, 2015 cited a myriad of other court activities as the basis for the request for the second extension.

This Court granted Appellant's second request for an extension to file the Initial Brief and Designation of Matter to June 11, 2015, and Ordered, "no further extensions will be granted absent extraordinary circumstances." The time limit of to file the Initial Brief and Designation of Matter is not stayed by the filing of the third Motion for an Extension, Rule 240(b), SCACR. Because the Appellant failed to file its Initial Brief within the time prescribed, Respondent also requests the Court to enter an Order pursuant to Rule 208(a)(4), SCACR, dismissing this Appeal.

#### Extraordinary Circumstances

Appellant's third Motion for an Extension fails to allege or provide evidence of any "extraordinary circumstances" as required by the Court's Order of May 14, 2015 (attached hereto and made a part hereof as Exhibit "A"). "Extraordinary Circumstances" sufficient for the Court to grant a third Motion for an Extension requires a showing of more than a busy workload, and upcoming or an illness for a week. "Extraordinary Circumstances" means conditions which make it impracticable or impossible to comply. S.C. Code 58-36-20 (11), as Amended, 1976. In each of Appellant's prior Motions for Extension he cited other workload, trials or appeals as reasons for the need for more time. Under the South Carolina Appellant Court Rules, Appellate oral argument

already takes priority over lower court appearances. Rule 601(a), SCACR.

Because this case is nearly four (4) years old and has caused numerous and repeated delays without a showing of extraordinary circumstances, and because the Appellant failed to file its Initial Brief and Designation of Matter prior to the prescribed date, Respondent requests the Court to enter an Order pursuant to Rule 208(a)(4), SCACR dismissing this Appeal. As stated in Rule 240(b), SCACR, the time limits imposed by the rule "shall not be stayed by the filing of a motion or petition."

Conclusion

For the foregoing reasons, Respondent requests the Court to deny the third Petition for Extension to Time and to enter an Order dismissing this Appeal.

Respectfully submitted,  
HARVEY & BATTEY, P. A.

By: 

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Beaufort, South Carolina  
June 16, 2015

# The South Carolina Court of Appeals

Benjamin Gecy, Appellant,

v.

South Carolina Bank & Trust, Jamie Hamner and  
Deborah Hamner, Respondents.

Appellate Case No. 2014-002712

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ORDER

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The time for serving and filing the appellant's initial brief and designation of matter is hereby extended until June 11, 2015. No further extensions will be granted absent extraordinary circumstances.

FOR THE COURT

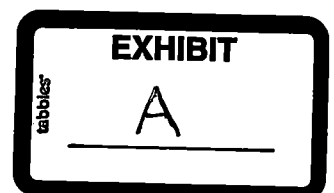
BY V. Claire Allen, Deputy  
CLERK

Columbia, South Carolina

**FILED**

May 14, 2015

cc:  
Robert V. Mathison, Jr., Esquire  
Thomas A. Holloway, Esquire  
James John Wegmann, Esquire



IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals  
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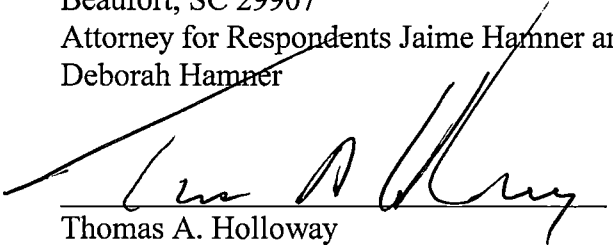
Respondents,

PROOF OF SERVICE

I certify that I have served the RESPONDENT SCB&T'S RETURN TO PETITION FOR EXTENSION OF TIME TO FILE APPELLANT'S INITIAL BRIEF AND DESIGNATION OF MATTER in the above matter upon the following attorneys:

Robert V. Mathison, Jr.  
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June 16, 2015



**HARVEY & BATTEY, PA**  
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THOMAS A. HOLLOWAY  
(also admitted in PA and NJ)

EUGENE PARRS  
(also admitted in NY, NC, FL and GA)

J. SAMUEL SCOVILLE

KEVIN E. DUKES

June 16, 2015

**VIA OVERNIGHT UPS DELIVERY**

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

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JUN 17 2015

SC Court of Appeals

**Re: Benjamin Gecy v. South Carolina Bank & Trust, Jaime Hamner and Deborah Hamner**  
**Case No. 2011-CP-07-01778**

Dear Ms. Kitchings:

Enclosed for filing with the court, please find the original and six (6) copies of RESPONDENT SCB&T'S RETURN TO PETITION FOR EXTENSION OF TIME TO FILE APPELLANT'S INITIAL BRIEF AND DESIGNATION OF MATTER regarding the above matter. By copy of this letter I am serving a copy of the enclosed upon the attorneys of record.

Thank you for your attention to this matter.

Yours truly,  
HARVEY & BATTEY, P.A.

  
Thomas A. Holloway

TAH:kdb

Enclosures

cc: Robert V. Mathison, Jr., Esquire  
James J. Wegmann, Esquire

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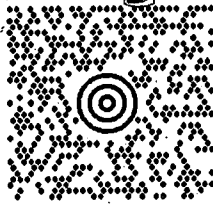


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