

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

Case No. 2011-CP-07-01778

RECEIVED

JUL 01 2015

SC Court of Appeals

Benjamin Gecy,

Appellant,

vs.

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

Respondents,

**RESPONDENTS SCB&T'S and JAIME HAMNER and DEBORAH HAMNER'S
RETURN TO PETITION FOR SIXTH EXTENSION OF TIME TO FILE APPELLANT'S
INITIAL BRIEF AND DESIGNATION OF MATTER**

The Respondents, South Carolina Bank & Trust and Jaime Hamner and Deborah Hamner, ("Respondents"), oppose Appellant's Petition for Sixth Extension of Time to file Appellant's Initial Brief and Designation of Matter.

This matter was originally filed in the Circuit Court on September 15, 2011. Summary Judgment was granted in favor of Respondents on June 5, 2014. The Trial Court 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 Sixth Extension

Appellant has requested and received five (5) prior 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 2nd 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 Court's Orders granting extensions 3 through 5 also required a showing of "extraordinary circumstances" for additional extensions and it appears "extraordinary circumstances" have not been shown.

The Court should be advised that Appellant's prior Motions for Extensions wrongly state: "Upon information and belief, the attorneys for Respondents do not object to this motion". Appellant's Counsel has not contacted either Respondents counsel at any time during the pending of this appeal for any reason. Certainly, there is no basis to support the representation to the Court that Respondents or their respective counsel do not object to the requested extensions.

The time limit to file the Initial Brief and Designation of Matter is not stayed by the filing of the Motion for a Sixth Extension, Rule 240(b), SCACR. The Appellant's Initial Brief and Designation of Matter were required by Order of the Court to be filed by June 26, 2015 and Appellant's Motion for a Sixth Extension is signed and mailed on June 29, 2015. Because the Appellant again failed to file its Initial Brief within the time ordered, Respondents request the Court to enter an Order pursuant to Rule 208(a)(4), SCACR, dismissing this Appeal.

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 repeatedly failed to file its Initial Brief and Designation of Matter within the dates required, Respondents request the Court to enter an Order pursuant to Rule 208(a)(4), SCACR dismissing this Appeal.

Conclusion

For the foregoing reasons, Respondents request the Court to deny the Petition for Sixth Extension to Time and to enter an Order dismissing this Appeal.

Respectfully submitted,

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Beaufort, South Carolina
July 1, 2015

IN THE STATE OF SOUTH CAROLINA
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APPEAL FROM BEAUFORT COUNTY
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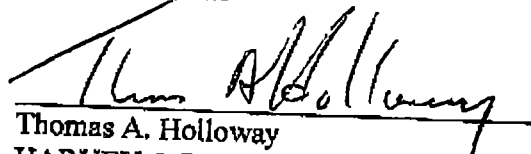
Respondents,

PROOF OF SERVICE

I certify that I have served the **RESPONDENTS SCB&T'S and JAIME HAMNER and DEBORAH HAMNER'S RETURN TO PETITION FOR SIXTH 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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Hilton Head Island, SC 29938-5271
Attorney for Appellant Benjamin Gecy

James J. Wegmann
Weidner, Wegmann & Harper, LLC
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Attorney for Respondents Jaime Hamner and
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Beaufort, South Carolina
July 1, 2015



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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 SOVILLE

KEVIN E. DUKES

July 1, 2015

VIA OVERNIGHT UPS DELIVERY

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

RECEIVED
 JUL 01 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 **RESPONDENTS SCB&T'S and JAIME HAMNER and DEBORAH HAMNER'S RETURN TO PETITION FOR SIXTH 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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JUL 01 2015

SC Court of Appeals

DATE: **July 1, 2015**
TO: **S.C. Court of Appeals**
FROM: **Tom Holloway, Esquire**
FAX NO: **(803) 734-1839**
RE: **Benjamin Gecy v. South Carolina Bank & Trust, Jaime Hamner and
Deborah Hamner
Case No. 2014-002712**

TOTAL NUMBER OF PAGES TRANSMITTED (INCLUDING COVER PAGE): 6

PLEASE CALL (843) 524-3109 IF YOU DO NOT RECEIVE THE TOTAL NUMBER OF PAGES OR A TRANSMISSION ERROR OCCURS.

COMMENTS:

Please see attached letter dated July 1, 2015 along with the stated enclosure.

Thank you.