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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

APPEAL FROM YORK COUNTY  
Hon. John C. Hayes, III, Circuit Court Judge  
Case No. 2015-001053

JUL 15 2015

SC Court of Appeals

Marjorie Cato Burton as Trustee of the Sloan Marvin Burton and Marjorie Cato Burton, AB  
Living Trust by and through David A. Burton as Attorney-in-Fact, Individually and in the Right and on  
Behalf of T.E. Cato Estate, LLC ..... Appellant

v.

Carroll M. Pitts, Jr., Esq., and Robinson Bradshaw & Hinson, P.A. .... Respondents

NOTICE OF MOTION AND MOTION FOR EXTENSION OF TIME TO FILE APPELLANT'S  
INITIAL BRIEF AND DESIGNATION OF MATTER

Matthew B. Rosbrugh, Esq.  
MBR Law, LLC  
Post Office Box 292290  
Columbia, South Carolina 29229

Roger B. Jellenik, Esq.  
1106 Little Street  
Camden, SC 29020  
(803) 424-1919  
Attorneys for Appellant

Samuel W. Outten, Esq.  
Nelson Mullins Riley & Scarborough  
Poinsett Plaza  
Suite 900  
104 South Main Street  
Greenville SC 29601  
Attorney for Respondents

Pursuant to SCACR 263(b), counsel for David A. Burton as Successor Trustee of the Sloan Marvin Burton and Marjorie Cato Burton, AB Living Trust, the Appellant in the captioned action, files this motion for extension of time to file the Appellant's designation of matter and initial brief. In support of this motion, the undersigned shows the court the following:

1. The captioned action is an appeal from the Order of the Hon. John C. Hayes, III, dated April 3, 2015, finding for the Appellees/Defendants ("Appellees") and against the Appellant/Plaintiff ("Appellant") after trial. Appellant initially filed its Summons and Complaint in this matter on May 27, 2010, on behalf of the Appellant and derivatively on behalf of T.E. Cato Estate, L.L.C., a family held limited liability company. The Complaint sought damages from Appellees/Defendants based upon causes of action for legal malpractice or, in the alternative, professional negligence. On April 16, 2015, after receiving Judge Hayes' April 3 Order, Appellant filed a Rule 59(e) motion, which Judge Hayes denied by order dated April 28, 2015. A Notice of Appeal was filed on behalf of Appellant on or about May 14, 2015.

2. Appellants retained the law firm of Ballard and Watson to prosecute the appeal. On or about June 9, 2015, Mr. Watson filed a letter indicating that he was already in possession of the trial transcripts and therefore it was not necessary for his firm to file a request for the transcript and, further, that his firm was moving to withdraw as appellate counsel. Mr. Watson further requested that Appellant be allowed an extension of time for new counsel to appear.

3. On June 11, 2015, this Court issued an order granting the requested extension and setting July 15, 2015 as the new deadline for Appellant's designation of matter and initial brief.

4. On June 16, 2015, Ballard and Watson filed a motion to withdraw as Appellant's counsel. That motion is still pending before the Court and no order has been issued relieving Mr. Watson or Ms. Ballard as counsel for Appellant.

5. On June 24, 2015, Roger Jellenik, Esquire, filed a motion for substitution of counsel designating the undersigned as new counsel for Appellant. That motion is still pending before the Court and no order has been issued substituting the undersigned as counsel.

6. Further, the trial transcript provided to Appellant's counsel contains certain errors, including pagination issues, which materially affect the Appellant's ability to provide a designation of matter and prepare the initial brief in this matter.

7. The undersigned has also not had adequate time to completely review the trial transcript and prepare the initial brief. The trial transcript is over one thousand (1,000) pages in length. Additionally, the undersigned previously scheduled family vacations for the month of July which has materially interfered with his ability to address the grounds for the appeal and the outstanding issues with the record, including the transcript pagination and exhibits.

8. Counsel believes that he will need at least an additional ninety (90) days beyond July 15, 2015 to address the pagination and other transcript issues and prepare Appellant's initial brief and designation of matter.

9. Appellant's motion is made in good faith and not for the purpose of delay. The undersigned does not believe that this extension will materially prejudice the Respondents.

Wherefore, Appellant requests this Court grant the requested extension and set the new date for the filing of Appellant's initial brie and designation of matter for October 15, 2015.

Dated this 15th day of July, 2015.



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Matthew B. Rosbrugh  
MBR Law, LLC  
Attorney for Appellant  
S.C. Bar No. 68619

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PROOF OF SERVICE

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The undersigned hereby certifies that I have served the **NOTICE OF MOTION AND MOTION FOR EXTENSION OF TIME TO FILE APPELLANT'S INITIAL BRIEF AND DESIGNATION OF MATTER** on counsel for Respondents by depositing a copy of it in the United States Mail, postage prepaid, on July 15, 2015, addressed to their attorneys of record, at Samuel W. Outten, Esq. Nelson Mullins Riley & Scarborough, Poinsett Plaza Suite 900, 104 South Main Street, Greenville SC 29601.



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Columbia, South Carolina  
JULY 15, 2015



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July 15, 2015

Samuel W. Outten, Esq.  
Nelson Mullins Riley & Scarborough  
Poinsett Plaza Suite 900  
104 South Main Street  
Greenville SC 29601

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SC Court of Appeals

RE: Marjorie Cato Burton as Trustee of the Sloan Marvin Burton and Marjorie Cato Burton, AB Living Trust by and through David A. Burton as Attorney-in-Fact, Individually and in the Right and on Behalf of T.E. Cato Estate, LLC v. Carroll M. Pitts, Jr., Esq., and Robinson Bradshaw & Hinson, P.A. Case No. 2015-001053

Dear Sam,

Please find enclosed and served upon you Appellant's NOTICE OF MOTION AND MOTION FOR EXTENSION OF TIME TO FILE APPELLANT'S INITIAL BRIEF AND DESIGNATION OF MATTER which has been filed today with the South Carolina Court of Appeals. Please let me know if you have any questions or need any additional information.

Sincerely,

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

Matthew B. Rosbrugh

Enclosures