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AUG 11 2015
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Appellate Case No. 2012-212331

Ron Orlosky in his capacity as
Personal Representative of The
Estate of Debora L. Orlosky, and
in his capacity as trustee of the
Debora Laura Orlosky
Revocable Trust,

Respondent,

v.

The Law Office of Jay A.
Mullinax, LLC,

Appellant.

**APPELLANT'S MEMORANDUM IN SUPPORT OF MOTION FOR EXTENSION
OF TIME TO FILE PETITION FOR REHEARING**

Pursuant to Rule 240 SCACR, Appellant, Law Office of Jay A. Mullinax, LLC, by and through its undersigned counsel, hereby moves for an additional extension of time of Fifteen (15) days to file the Petition for Rehearing. Appellant respectfully requests that this Court grant a Fifteen (15) day extension for the following reasons:

The Appellant believes that the Court desires that its final decision in this case be just, equitable and well-reasoned, and if any issue or item was overlooked or misapprehended, that the Court fully explore and analyze those issues and consider rectification of those issues in its final decision, if it deems rectification appropriate.

The Court implied its desire to have its final decision in this case be equitable, when the Court asked the Appellant in closing, "how does and attorney handle that...?", in response to issues concerning an attorney (Appellant) adamantly and ethically following the tax law to his or her own

significant detriment. The Appellant responded, "It's tough".

The Appellant understands that many of the federal subject matters and issues underlying this case are most commonly heard and decided by federal courts. Although many of the issues contained in this case fill the federal courts, some of the federal issues, well settled most commonly in federal tax courts, may have been overlooked or misapprehended by this Court. The Appellant would like the opportunity to respectfully summarize those critical issues for this Court's thoughtful review and focus.

The Appellant is making every effort to appropriately prepare the Request for a Rehearing in a thoughtful, well-reasoned, and concise way. The Appellant has cancelled or postponed many professional and personal activities in order to adequately and fully provide the information to the Court at the earliest opportunity. The Appellant has never requested more than one extension for any single deadline from the Court. Even though the Respondent has three or more attorneys working on this case, the Respondent has requested multiple extensions, including two extensions for a single deadline item. The Court has approved all of the Respondent's extensions, including the multiple extensions for the same item. The Appellant would respectfully request that this Court allow this extension to this single item.

The Lower Court's loss of the original hearing transcript, loss of hearing documents, and re-construction of a (now) incomplete and inaccurate record, and the "loss of a Court Reporter" delayed the Appellant's reasonable right to have materials and personnel available to provide an equitable defense. Given the choice by the Court of Appeals to appeal "without a record" or to appeal with an "inadequate record", the Appellant chose to move forward with an inadequate and incomplete record. Now (and recently in regard to this case), after the Appellant's extended wait for the incomplete and error ridden record from a "missing" Court Reporter, the Appellant must coordinate with (now infirmed) firm personnel who are intimately familiar with the case (since its inception) to travel at great expense and personal hardship to assist in this matter, years after the issues arose in this case. This effort requires the significant involvement of firm personnel's family member's coordination and cooperation, as well as special medical accommodations and family care needs.

The Appellant is not so naive to believe that every court in every circumstance will have before it the information and ability to reach an equitable and just decision. Based on the Court's current order, that could be the circumstance here. Even the Respondent's offer (in the record) to settle the case for a \$20,000.00 refund from the Appellant, resulting in a net payment of \$80,000.00 to the Appellant, seems to suggest an inequity in the current Court order. Fortunately, the Respondent and the Appellant each knows the equitable facts in this case and knows what an appropriate equitable outcome could be. The Appellant contends that a review of particular items may result in a decision closer to that equitable outcome. Nevertheless, the Respondent and the Respondent's attorneys should be commended on their exceptional shrewdness in the various areas in which they've achieved the Court's current decision.

The Appellant is simply asking for an extension in order to adequately provide the Court with the best opportunity to reach a decision that comports with what the trial judge (Roger M.

Young) affectionately titled after his co-author, Respondent's counsel (Stephen Spitz) in 2003, "Spitz's Ultimate Equitable Maxim" (SUEM), which says, "Good Guys should win and Bad guys should lose."

The Appellant has other reasons for requesting the extension other than the aforementioned. In consideration of the fact that the sole (non-party) witness testifying in this case, (the lead estate attorney for the Respondent and competitor against the Appellant), the Respondent respectfully request that the Court of Appeals not require additional information in order to approve the extension request. If the Appellant is required to provide additional information for approval of this extension, the Appellant respectfully request that any additional information, if offered, be withheld from opposing counsel, as an exception to the regular rules.

Because of the significant weight of the Court's decision, the Appellant respectfully requests that the Court strongly consider the approval of an extension of time for the Appellant to file a Petition for a Rehearing, so that it may carefully consider things it may have misapprehended or overlooked.

Respectfully submitted,

August 6, 2015


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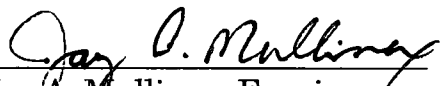
The Law Office of Jay A.
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PROOF OF SERVICE

I certify that I have served the Memorandum in Support of Appellant's Motion for Extension of Time to File Petition for Rehearing on Mr. Ron Orlosky, by depositing a copy of it in the United States Mail, postage prepaid on May 5, 2014, addressed to his attorney of record, Mr. John R.C. Bowen, P.O. Drawer 21119, Hilton Head Island, South Carolina 29925-1119.

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