

IN THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Edward W. Miller, Circuit Court Judge

Case No. 2008-CP-23-05739
Appellate Case No. 2013-002790

Andrew P. (Andy) Ballard, Respondent,

v.

Tim Roberson, Rick Thoennes, Rick Thoennes III,
and Warpath Development, Inc.Appellants/Petitioners.

**APPELLANTS' REPLY IN SUPPORT OF ITS PETITION FOR EXTENSION OF TIME
TO SUBMIT PETITION FOR A WRIT OF CERTIORARI OR STAYING THE TIME
FOR FILING A PETITION FOR A WRIT OF CERTIORARI**

Please accept the following in Reply to Respondent's September 30, 2015 Return to Appellants/Petitioners' petition for an extension of time Pursuant to Rules 224 and 234 of the South Carolina Appellate Court Rules. Appellants Tim Roberson, Rick Thoennes, Rick Thoennes, III and Warpath Development, Inc. ("Appellants"), moved the Court for an order granting a thirty (30) day extension of time in which to submit its Petition for a Writ of Certiorari or staying the time for filing a Petition for a Writ of Certiorari until such time as the court of appeals has finally ruled on Appellants' Petition for Rehearing and Rehearing *En Banc*.

Respondent opposes the motion on the assertion of unnecessary delay. For the following reasons, respondent's assertion is without merit.

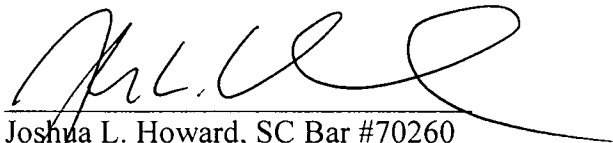
Pursuant to Rule 242(d)(2), SCACR, “[o]nly those questions raised in the Court of Appeals and in the petition for rehearing shall be included in the petition for writ of certiorari as a question presented to the Supreme Court.” According to The Supreme Court of South Carolina’s July 16, 2014 Order, Re: Extensions in Cases Seeking a Petition for a Writ of Certiorari to Review a Decision of the South Carolina Court of Appeals, 2014-07-16-01, “this entire process is to be completed not later than seventy (70) days after the Court of Appeals denied the petition for rehearing or reinstatement in the appeal.” (emphasis added).

As stated in motion, on July 15, 2015, the court of appeals issued an opinion in the above-captioned matter affirming but modifying the decision of the trial court. Within the time permitted, on July 30, 2015 Appellants filed a Petition for Rehearing and Rehearing *En Banc*. On August 26, 2015, the court granted the Petition for Rehearing and issued a substitute opinion clarifying its opinion. The court of appeals, however, did not in any way deny the remainder of Appellants’ petition. Because the court did not rule on the entirety of Appellants’ July 30, 2015 Petition for Rehearing and the court’s modified opinion raised a new issue that was required to be included for rehearing, Appellants’ filed a subsequent Petition for Rehearing and Rehearing *En Banc* of the court’s August 26, 2015 opinion on September 10, 2015. Appellants waited as long as possible to hear from the court of appeals. As of today, the court of appeals has not issued an order addressing Appellants’ September 10, 2015 Petition for Rehearing. Accordingly, while a decision on Appellants’ September 10, 2015 Petition for Rehearing remains pending and finding no authority addressing whether a subsequent Petition for Rehearing stays the running of

the time permitted by SCRAP Rule 242(c), out of an abundance of caution, Appellants sought the requested relief.

Appellants are not seeking to delay as Respondent asserts. Given that the Appellants petition for rehearing has not ever been denied and presently remains pending in the court of appeals, Appellants assert it is reasonable to request that they be given a fair opportunity to present the very contentious issues raised on appeal on petition for writ of certiorari.

Respectfully submitted,



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Attorneys for Appellants/Petitioners

October 6, 2015
Greenville, South Carolina

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PROOF OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the *Appellants' Reply in Support of Its Petition for Extension of Time to Submit Petition for A Writ of Certiorari or Staying the Time for Filing A Petition for A Writ of Certiorari* was served upon all counsel of record on this the 6th day of October, 2015, by depositing a copy in the United States Mail, postage prepaid addressed as follows:

Wallace K. Lightsey
WYCHE, P.A.
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