

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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NOV 13 2015

APPEAL FROM DARLINGTON COUNTY
Court of Common Pleas
Honorable J. Michael Baxley

S.C. Supreme Court

Case No. 2010-CP-16-0315
Court of Appeals Appellate Case No. 2014-000134

Bobby Lee Tucker, Sr.,..... Respondent,

v.

John Doe, Individually, and d/b/a Doe Trucking
Company,.....

Petitioner.
~~Appellant.~~

**MOTION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI**

Pursuant to Rules 240 and 242 of the South Carolina Rules of Appellate Procedure, Petitioner John Doe, Individually, and d/b/a Doe Trucking Company (“Doe”) moves this Court for an extension of time to file its petition for a writ of certiorari to review the Court of Appeals’ opinion in *Tucker v. Doe*, Op. No. 5338 (S.C. Ct. App. filed August 5, 2015) (Shearouse Adv. Sh. No. 30 at 50).

On August 5, 2015, the Court of Appeals issued its opinion in this matter. Doe timely filed a petition for rehearing and rehearing *en banc* on September 4, 2015. The Advance Sheet dated October 21, 2015 stated that the petition for rehearing was denied on October 19, 2015. *See* Shearouse Adv. Sh. No. 41 at 3. However, the Court of Appeals has not issued an order denying the petition for rehearing. The office of the undersigned contacted the Court of Appeals and confirmed that no order denying the

petition for rehearing has been mailed and that the petition for rehearing *en banc* remains pending.

Rule 242 provides, in relevant part:

A decision of the Court of Appeals is not final for the purpose of review by the Supreme Court until the petition for rehearing or reinstatement has been acted on by the Court of Appeals. A petition for writ of certiorari shall be served on opposing counsel and filed with proof of service with the Clerk of the Court of Appeals and the Clerk of the Supreme Court within thirty (30) days after the petition for rehearing or reinstatement is finally decided by the Court of Appeals. . . .

Rule 242(c), SCACR (emphasis added). The Rule is unclear whether a statement in the Advance Sheet that a petition for rehearing has been denied, constitutes the Court of Appeals having “acted on” the petition for rehearing such that it has been “finally decided.” Accordingly, Doe files this motion for extension to ensure its right to seek certiorari is protected. Doe requests that the Court grant a thirty (30) day extension of time from November 18, 2015, the deadline from the date that the Advance Sheet stated that the petition for rehearing was denied, for Doe to file its petition for certiorari.

[signature page attached]

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:  _____

C. Mitchell Brown, SC Bar No. 012872

E-Mail: mitch.brown@nelsonmullins.com

William C. Wood, Jr., SC Bar No. 015111

E-Mail: bill.wood@nelsonmullins.com

Michael J. Anzelmo, SC Bar No. 72933

E-Mail: michael.anzelmo@nelsonmullins.com

Graham R. Billings, SC Bar No. 101117

E-mail: graham.billings@nelsonmullins.com

1320 Main Street / 17th Floor

Post Office Box 11070 (29211-1070)

Columbia, SC 29201

(803) 799-2000

Attorneys for Appellant John Doe, Individually, and
d/b/a Doe Trucking Company

Columbia, South Carolina
November 13, 2015

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM DARLINGTON COUNTY
Court of Common Pleas
J. Michael Baxley, Circuit Court Judge

Case No. 2010-CP-16-0315
Appellate Case No. 2014-000134

Bobby Lee Tucker, Sr., Respondent,

v.

John Doe, Individually, and d/b/a Doe Trucking
Company, Appellant.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

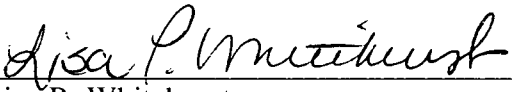
Pleadings:

Motion for Extension to File Petition for Writ of
Certiorari

Counsel Served:

William P. Hatfield, Esquire
Hatfield Temple, LLC
170 Courthouse Square
Post Office Box 1770
Florence, SC 29503

Robert N. Hill
Law Offices of Robert Hill
Post Office Box 1323
Lexington SC 29071-1323



Lisa P. Whitehurst
Administrative Assistant

November 13, 2015

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
1320 Main Street / 17th Floor / Columbia, SC 29201
Tel: 803.799.2000 Fax: 803.256.7500
www.nelsonmullins.com

Graham R. Billings
Tel: 803.255.9724
graham.billings@nelsonmullins.com

November 13, 2015

RECEIVED

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The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

S.C. Supreme Court

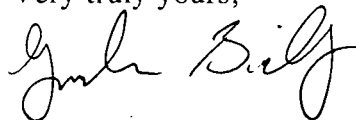
RE: Bobby Lee Tucker, Sr. v. John Doe, individually, and d/b/a Doe Trucking
Company
Civil Action No. 2010-CP-16-0315
Appellate Case No. 2014-000134
Our File No. 00350/01708

Dear Mr. Shearouse:

Enclosed please find the original and seven copies of a Motion for Extension of Time to File Petition for Writ of Certiorari in regard to the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via our courier. Also enclosed is our check in the amount of \$25.00 as the required filing fee.

By copy of this letter to counsel of record, we are serving them with a copy of this motion.

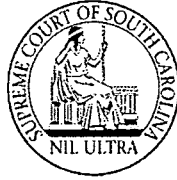
Very truly yours,



Graham R. Billings

GRB:lpw
Enclosures

cc: William P. Hatfield, Esquire
Robert N. Hill, Esquire



The Supreme Court of South Carolina

Nelson Mullins Riley

11/16/2015

RECEIPT #77874

Case No: 2015-002323
Case Short Title: Bobby Lee Tucker v. John Doe
Event: Motion - Extension of Time (1st)
Fee Type: Motion Fee
Amount: \$25.00
Payment Type: Check
Reference No: 208427
Check/Money Order Date: 11/13/2015
Comments: