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IN THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY

Court of Common Pleas

Marvin H. Dukes, III

Master in Equity and Special Circuit Court Judge

Case No. 2011-CP-07-01778

Appellate Case No. 2014-002712

RECEIVED
JAN 27 2016
SC Court of Appeals

BENJAMIN GECY, Appellant,

v.

SOUTH CAROLINA BANK & TRUST, JAIME HAMNER and
DEBORAH HAMNER, Respondents.

NOTICE OF MOTION AND MOTION
(TO PERMIT THE FILING AND SERVICE
OF THE RECORD ON APPEAL BEYOND TIME)

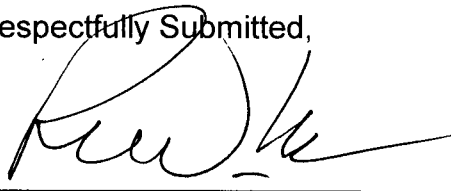
The Appellant, Benjamin Gecy, by and through his undersigned attorney, moves the Court of Appeals for an order permitting the filing and service of the Record on Appeal in this case outside the time limit set forth in Rule 211, SCACR.

As appears from the Affidavit of the Appellant's attorney, which is attached to this Motion, as a consequence of the attorney's misconception of the status of an extension previously sought, the Record was not timely filed and served—an oversight that has

now been rectified by the filing and service of the Record comprising 1326 pages at the same time as this Motion.

This Motion is premised upon the grounds set forth in the aforementioned Affidavit and is made in the interest of justice.

Respectfully Submitted,

By: 

Robert V. Mathison, Jr.
Attorney for the Appellant
Benjamin Gecy

MATHISON & MATHISON
Post Office Box 5271
Hilton Head Island
South Carolina 29938-5271
Telephone: (843) 785-6503
Email: rmathlaw@aol.com

January 25, 2016

Hilton Head Island, South Carolina.

MEMORANDUM

The relief requested in the motion set forth above is authorized by Rules 211 and 240, SCACR.

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**AFFIDAVIT
(ROBERT V. MATHISON, JR.)**

PERSONALLY appeared before me Robert V. Mathison, Jr. (herein sometimes "the Affiant"), who, first being duly sworn, says under oath the following:

1. My name is Robert V. Mathison, Jr., and I am an attorney licensed to practice law by the State of South Carolina.
2. I am the attorney for the Appellant, Benjamin Gecy, in this matter, and I reside at Hilton Head Island in Beaufort County, South Carolina.
3. I am 68 years of age, of sound mind, and I make this Affidavit of my own personal knowledge.

4. As a consequence of my not receiving briefs from the Respondents as expected, I wrote to the Clerk of the Court of Appeals to request an explanation and an extension, as appears from a copy of my letter dated November 20, 2015, which is attached hereto as Exhibit A.

5. At that time I was preoccupied with preparing for a trial that had been scheduled for the week immediately after Thanksgiving.

6. When the status of the Respondents' Briefs became clear, my client and I decided not to reply to the brief by SCB&T that had been filed with the Clerk but never received in the mail by me.

7. Believing, erroneously, that I had secured an extension from the Appellant's obligations under Rule 211, SCACR, I turned my attention to other, pressing matters in the hectic run-up to Christmas that precedes the interlude that follows.

8. Unfortunately, I contracted an illness that led to my being out of the office with acute bronchitis for a number of days during this period.

9. Because I did not participate in the trial court proceedings until the filing of the Plaintiff's post-trial motions, I was dependent on others to furnish many of the materials that ordinarily are included in the Record on Appeal.

10. Instead of fast tracking the compilation of the record, to the extent that I could, I was content to let it proceed at a slower pace because of the misconception described above and my preoccupation with other matters.

11. Upon being apprised of my misconception by the Clerk's office, I have complied the Record on Appeal as directed and as rapidly as possible.

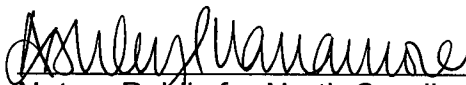
12. Upon information and belief, my oversight has not caused material prejudice to either of the Respondents, and I earnestly request, in the interest of justice, that the Court permit the Appellant to file and serve the Record on Appeal outside of the filing deadline provided by Rule 211, SCACR.

FURTHER THE AFFIANT SAYETH NOT.



Robert V. Mathison, Jr.

SWORN to and Subscribed before me
on this 25th Day of January, 2016.

 (SEAL)
Notary Public for North Carolina
My Commission Expires: 7-24-19.

Ashley T. Narramore
Notary Public
Buncombe County, NC

MATHHISON & MATHISON
Post Office Box 5271
Hilton Head Island, SC 29938
Telephone: (843) 785-6503
Email: rmathlaw@aol.com

November 20, 2015

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED

JAN 27 2016

SC Court of Appeals

Re: Benjamin Gecy v. South Carolina Bank & Trust, et al.
Case No. 2011-CP-07-01778

Dear Ms. Kitchings:

Please be advised that I have not received service copies of either of the Respondents' Initial Briefs. My client went on line and obtained a copy of the Respondent SCB&T's brief, which, evidently, was received by the Court of Appeals on November 12, 2015. However, I have yet to receive a copy of either one in the mail.

Accordingly, by this letter, I am moving for an extension of time to reply to the briefs. I ask that the extension be for the longer of 17 days from today's date or 14 days after my receipt of the last brief to be served. Next week has effectively only three working days due to Thanksgiving, and I have a trial scheduled for the week of November 30, 2015. Thus, I ask that the 17 days run through and include December 7, 2015.

I have enclosed my check in the amount of \$25.00 to pay the motion fee.

Thanking you and with kind regards, I am

Sincerely,

Robert V. Mathison, Jr.

RVM:bh

Enclosure

cc: Thomas A. Holloway, Esquire
James J. Wegmann, Esquire
Mr. Benjamin C. Gecy

EXHIBIT A

THE STATE OF SOUTH CAROLINA
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And DEBORAH HAMNER..... Respondents.

PROOF OF SERVICE

I, Robert V. Mathison, Jr., hereby certify that on January 25, 2016, I filed and served by mail the original and copies of the Appellant's Notice of Motion and Motion to Extend Time to File and Serve the Record on Appeal outside of the filing deadline set by Rule 211, SCACR, as well as the Affidavit of Robert V. Mathison, Jr., by depositing same, with sufficient first class postage prepaid, at the United States Post Office at Asheville, North Carolina, addressed as follows:

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Thomas A. Holloway, Esquire
Harvey & Battey, P.A.
Post Office Box 1107
Beaufort, South Carolina 29901

James J. Wegmann, Esquire
Weidner, Wegmann & Harper, LLC
6 Professional Village Circle
Beaufort, South Carolina 29907



Robert V. Mathison, Jr.
Mathison & Mathison
Post Office Box 5271
Hilton Head Island, SC 29938
Telephone: (843) 785-6503
Email: rmathlaw@aol.com

Attorney for the Appellant
Benjamin Gecy

January 25, 2016

Hilton Head Island, South Carolina.

MATHHISON & MATHISON

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Hilton Head Island, SC 29938
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Columbia, South Carolina 29211

SC Court of Appeals

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Case No. 2011-CP-07-01778
Appellate Case No. 2014-002712

Dear Ms. Kitchings:

In accordance with the letter of V. Claire Allen dated January 13, 2016, enclosed for filing please find the following:

(a) The original of the proposed Record on Appeal, comprising 1326 pages in two boxes, together with the Proof of Service for the Record bearing today's date. The Certificate of Counsel is in the second box on the final page (1326) of the Record.

(b) The original and six copies of the Notice of Motion and Motion to Extend Time to File and Serve the Record on Appeal (outside of the deadline).

(c) The original and six copies of my Affidavit in support of the motion;

(d) The original Proof of Service for the motion bearing today's date; and

(e) Our check in the amount of \$25.00 to pay motion the filing fee.

Thanking you and with kind regards, I am

Sincerely,



Robert V. Mathison, Jr.

RVM:bh

Enclosures

cc: Thomas A. Holloway, Esquire
James J. Wegmann, Esquire
Mr. Benjamin C. Gecy