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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Mikell E. Scarborough, Master-in-Equity

Case No. 2011-CP-10-95

Bayview Acres Civic Club.....Respondent,

v.

Gerald E. Moore, Jr. a/k/a Gerald
Moore and Margaret Bates Moore.....Appellants.

Respondent's Motion to File Initial Brief and Designation of Matter out of Time


The Respondent respectfully moves—with the consent of Appellant—and pursuant to Rules 240 and 262, for an order granting it a brief further enlargement of the time in which to submit its initial brief and designation of matter to be included on appeal. The ground for this motion is that, despite the certificate of service attached to the Appellant's Initial Brief, counsel for the Respondent has no record of having received these documents.

Counsel for Respondent is well aware of the skepticism with which his assertion must be viewed: the purpose of the certificate is to eliminate precisely this sort of controversy. Nevertheless, as set forth in his attached affidavit, Respondent's counsel is confident that his office has not received the documents. Respondent's counsel is certain that Appellant complied in all ways with the Rules; Respondent's counsel has spoken to Mr. Collins, who has no objection to the requested extension

Respondent further respectfully asserts that there will be no unfair prejudice to the Appellant, especially given that the request is to extend the time for filing these materials is only through February 5th, 2016.

Respectfully submitted,

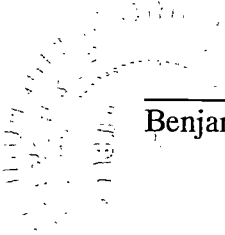
February 3rd, 2016



Benjamin A. C. Traywick
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Fax (843) 300-1051
Attorney for the Respondent

timely filed the Respondent's initial brief and designation of matter.

5. This motion will be filed today, February 3rd, 2016; understanding that the Court's consideration of the relief requested in this motion is of uncertain outcome, I nevertheless will file the Respondent's Initial Brief and Designation of Matter on or before Friday, February 5th, 2016.



[Handwritten signature]

Benjamin A.C. Traywick

2-3-16

Date

Lisa A. Aiskel
Notary Public
My Comm. Expires 4/23/25

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Affidavit of Benjamin A.C. Traywick

Appeared before me Benjamin A.C. Traywick, who swears and affirms as follows:

1. I am over the age of 18 years and make this affidavit with personal knowledge of the matters discussed herein.
2. I am counsel of record for the Respondent Bayview Acres. Having conducted a comprehensive search of my files—electronic and paper—I have found no indication that the Appellant’s Initial Brief or Designation of Matter was delivered to my law firm.
3. I am aware that these materials, as filed with the Court, include a certificate of service upon me; I certainly do not allege that my colleague, Appellant’s counsel David Collins, failed to comply with the rules.
4. Had I been aware of the Appellant’s brief’s being filed I would have prepared and

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she has served the Notice of Deposition of Diana Wood upon the following parties via:

X	United States Postal Service
	Facsimile
X	Electronic Email

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SC Court of Appeals

David A. Collins
P.O. Box 40578
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By: *Lisa Risher*
Lisa Risher

Date: February 3, 2016



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