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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM ALLENDALE COUNTY  
Court of Common Pleas

William F Myrick, Jr., Special Referee

Case No. 2009-CP-03-00143  
Court of Appeals Tracking No. 2011195126

Carolyn Diane Johnson,

Respondent

v.

Christopher L. Mew and Rose Ann Bowers Youmans,  
Of Whom Christopher L. Mew is the,  
And of Whom Rose Ann Bowers Youmans is,

Defendants,  
Appellant,  
Respondent.

APPELLANT'S PETITION FOR REHEARING

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Carolyn Diane Johnson

## Memorandum

The Appellant contends that his motion to amend the Special Referee's Order was filed timely based on the fact that actual notice of the Original Order of the Special Referee was provided to the Appellant on March 8, 2011. On March 15, 2011, the Appellant filed the Motion to Amend the original Order, seven days after actual notice and within the ten day requirement for filing such notice. A timely filing of this motion tolls the time for filing the Notice of Motion.

Judge Few's Order denying the Respondent's Motion to Dismiss was based on the Appellant's receipt of the Order and states the record is lacking proper documentation when the Order was received. "Without a factual finding of the date of receipt, this Court will not dismiss the appeal as untimely." (Order Denying Respondent's Motion to Dismiss p.2, lines 11-12)

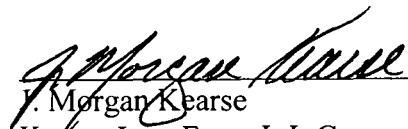
The issues of timing remain the basis for the Appeal and should be subject for review by this Court. The Appellant alleges receipt of the Order as March 8, 2011. The disparity between the mailing of the Order and receipt of the Order is the basis for the Appellant's argument, which is referenced in the Notice of Appeal. The Appellant received the written Order denying the Motion to Amend on May 28, 2011. The Notice of Appeal was filed subsequently on June 27, 2011, within the requisite thirty day time period. This notice puts the parties and the Court on notice that issues of time should be addressed by this Court as well as issues contained in the original Order of the Special Referee that is reflected in Appellant's brief.

The Appellant further asserts that the Notice of Appeal was filed timely, and the Notice of Appeal references the issue of timeliness. Because the Notice of Appeal

includes the information about the Special Referee's refusal to amend the original decision and specifically refers to the timeliness issue, the Appellant asserts this matter should be reviewed by this court

Due to the fact that the Court's current decision eliminates any possibility of further review of the original issues, the Appellant is being prejudiced since the decision eliminates reviewing the Special Referee's original Order For these reasons the Appellant respectfully requests this Court to rehear this matter.

Respectfully Submitted,

  
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**CERTIFICATE OF SERVICE**

THIS IS TO CERTIFY that I have this day served a copy of the Appellant's Petition For Rehearing pertaining to Mew vs. Johnson et al upon the following

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by depositing said copies in the United States mail with adequate postage affixed thereto to ensure proper delivery.

This 27<sup>th</sup> day of September, 2012.

  
\_\_\_\_\_  
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