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November 9, 2016

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SC Court of Appeals

Honorable Jenny A. Kitchings  
Clerk of the S.C. Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

Re: Ewing v. Guest  
Appellate Case No. 2016-001878

Dear Ms. Kitchings:

On October 27, 2016, I filed respondent's Motion for Leave to Apply for Relief in Circuit Court, to prevent the cutting of trees on the subject property in violation of the orders under appeal. The motion was directed to the appellants Guest, whose Return to the Motion was due by November 7, 2016 pursuant to Rule 240(e), SCACR. No Return was filed. Rule 240(e) provides:

Failure of a party to timely file a return may be deemed a consent by that party to the relief sought in the motion or petition.

By letter of November 7, 2016 to appellants' counsel, Mr. Kuhn, the Court requested a Return to the Motion within another ten days, *i.e.*, by November 17, 2016. I respectfully submit that the Court should withdraw that request and deem the appellants to have consented to the relief sought in the Motion, *per* the Court's Rule 240(e).

Appellants' initial brief and designation were due on November 7, 2016, pursuant to the Court's Order granting a second extension of time to that date and announcing that no further extensions would be granted absent extraordinary circumstances. On November 3, 2016, the appellants moved for an additional extension on the ground that they had intended to seek not a ten-day but a thirty-day extension in their second extension motion. In the Court's letter of November 7, 2016, the Court suspended the time limits for perfecting the appeal pending a decision on the respondent's Motion for Leave to Apply for Relief in Circuit Court. This has the *de facto* effect of granting the appellants a third extension of time for their brief, which was not to have been granted absent extraordinary circumstances.

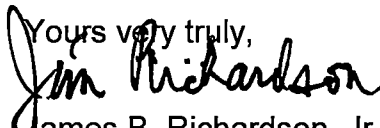
The Motion for Leave has no effect on the progress of the appeal. The Motion seeks permission to move in the court below for relief from a threatened violation of the orders under appeal. I respectfully request that the Court rescind its decision to suspend the time limit for appellant's brief and designation and proceed to decide on its merits appellants' motion for a third extension.

While all this was going on, the appellants have proceeded to cut the trees in question. All that the respondent can do now is to seek a circuit court order holding them in contempt and imposing sanctions.

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The Court's letter of November 7, 2016 mistakenly recited that the Motion for Leave was that of Mr. Kuhn instead of me, but I am sure that Mr. Kuhn understands that it is the appellants who are directed to file the requested return.

Thanking you, I remain

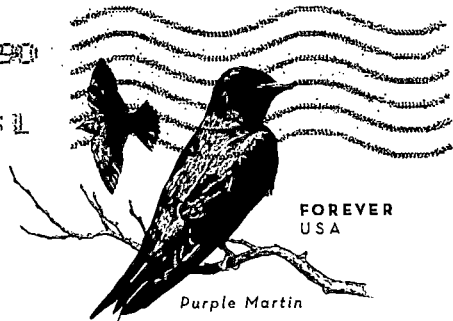
Yours very truly,  
  
James B. Richardson, Jr.

cc: H. Fred Kuhn, Jr., Esq.  
David L. Tedder, Esq.

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