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THE STATE OF SOUTH CAROLINA  
In the Supreme Court

APPEAL FROM BEAUFORT COUNTY  
Marvin H. Dukes, III, Circuit Court Judge

Case No. 2009-CP-07-03201

Appellate Case No. 2016-002220

RECEIVED

NOV 14 2016

SC Court of Appeals

National Bank of South Carolina, .....

Respondent NOV 16 2016

v.

Thaddeus F. Segars, KCS Investments, LLC, Singleton  
Place Homeowners Association Inc., and SunTrust  
Mortgage Inc., .....

S.C. SUPREME COURT

Defendants,

Of Whom Thaddeus F. Segars is the, .....

Petitioner.

RESPONDENT NATIONAL BANK OF SOUTH CAROLINA'S RESPONSE TO  
PETITIONER'S MOTION TO FILE PETITION FOR CERTIORARI OUT OF TIME

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*Attorneys for Respondent*

Pursuant to Rule 240(e) of the South Carolina Appellate Court Rules ("SCACR"), Respondent National Bank of South Carolina ("NBSC") files this Response to Petitioner Thaddeus Segars' ("Segars" or "Petitioner") Motion to File Petition for Certiorari Out of Time (the "Motion"). As explained more fully below, this Court should deny Segars' Motion.

### BACKGROUND

On September 26, 2016, the Court of Appeals issued and filed an Order denying Segars' Petition for Rehearing ("Order Denying Petition for Rehearing"). In accordance with Rule 242(c), SCACR, "[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." Accordingly, Segars' deadline to file a petition for writ of certiorari ("Petition") to the Supreme Court was no later than October 26, 2016. Segars did not file his Petition until October 31, 2016 and thus missed the deadline.

In addition, Segars did not attempt to seek an extension prior to the filing deadline. After admitting that he may have "miscalculated the time for filing," he then requests that he be permitted an additional fifteen days in which to serve his petition for writ of certiorari to the Supreme Court. *See* Motion at 2. As explained below, Segars fails to show good cause to extend the deadline, and thus, this Court should deny his Motion.

### ARGUMENT

#### **I. Misreading the Rule regarding Calculation of the Deadline for Filing a Petition for Writ of Certiorari Does Not Constitute Good Cause for Extending the Missed Deadline.**

As previously stated, Rule 242(c) provides that a petition for writ of certiorari must be filed "within thirty (30) days after the petition for rehearing or reinstatement is finally decided

by the Court of Appeals.” SCACR 242(c). On July 16, 2014, the Supreme Court established a policy regarding extensions in cases filed under Rule 242, SCACR, and stated that “[u]pon a showing of good cause, a party . . . may be granted extensions totaling no more than twenty (20) days during the proceedings before this Court.” See *Extensions in Cases Seeking a Petition for a Writ of Certiorari to Review a Decision of the South Carolina Court of Appeals*, 2014-07-16-01 (S.C. Sup. Ct. Order dated July 16, 2014). It is unclear from the order whether this standard applies only to extensions sought before the deadline has run or also applies to motions seeking to file out of time, i.e., after the deadline has run. See e.g. *Thompson v. E.I. DuPont de Nemours*, 76 F.3d 530, 532 (4<sup>th</sup> Cir. 1996) (noting that good cause standard is more appropriate standard for extensions of time to file notice of appeal that are filed before the deadline has passed but that one must show “excusable neglect” if extension request filed after the deadline has run.)

Segars appears to have misread SCACR 242(c) when calculating the deadline for filing a petition for writ of certiorari. In his Motion, he correctly states that the Court of Appeals denied his Petition for Rehearing on September 26, 2016. He then states that he did not receive a copy of the Order Denying Petition for Rehearing until October 1, 2016 and calculates that he had until October 31, 2016 to file his petition for writ of certiorari. See Motion at 1-2. Thus, Segars believed he had 30 days from the date he *received* the Court of Appeals' order denying the Petition for Rehearing, instead of 30 days from the time the “petition for rehearing . . . is finally decided by the Court of Appeals” as the rule requires. See Rule 242(c), SCACR. However, even assuming that the “good cause” standard applies to extension requests filed after the deadline has passed, ignorance of the rules of procedure does

not constitute good cause for failure to comply with the Court's rules for filing deadlines nor does it justify extending the deadline.

**II. The Hurricane Matthew Order Does Not Apply to Segars' Filing Deadline, and the Closure of His Counsel's Office for Two Weeks Does Not Constitute Good Cause For Extending the Missed Deadline.**

Though Segars admits he may have misread the rule in calculating the deadline to file his petition, he identifies the evacuation of Beaufort County for Hurricane Matthew from October 5, 2016 to October 12, 2016 and his inability to re-open his office until October 19, 2016 as a reason why this Court should grant his Motion "[s]hould the Court determine that [Segars'] petition is not timely filed. See Motion at 2. Segars' excuse is unavailing. The Supreme Court was very aware of Hurricane Matthew and provided relief regarding deadlines impacted by the storm. More specifically, on October 10, 2016, the Supreme Court entered an order in which it declared the days of October 5, 2016, through October 14, 2016, to be statewide "holidays" for the purposes of computing time under Rule 263 of the South Carolina Appellate Court Rules. See *Hurricane Matthew*, 2016-10-10-01 (S.C. Sup. Ct. Order dated Oct. 10, 2016) ("Hurricane Matthew Order"). Thus, the Hurricane Matthew Order provided relief for deadlines that fell between October 5, 2016 and October 14, 2016 and would extend any such deadlines to fall on the next day that is not a Saturday, Sunday or legal holiday. Segars' deadline was on October 26, 2016 and thus not within the date range contemplated by the Hurricane Matthew Order.

Additionally, the fact that Segars' office was closed until October 19, 2016 is not good cause for extending the missed deadline. Segars does not address why he could not file an extension request between October 19, 2016 (when his office re-opened) and the deadline of October 26, 2016. It may be because he miscalculated the deadline under Rule 242, SCACR.

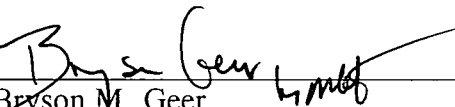
However, as stated above, ignorance of the rules of procedure does not justify extension of a missed deadline. Accordingly, because Segars has not established "good cause" for failing to file his petition by the deadline, this Court should deny his Motion.

CONCLUSION

Because on the foregoing, Segars has failed to show good cause to file his petition for writ of certiorari out of time, and his Motion should be denied.

Respectfully submitted,

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Charleston, South Carolina  
November 10, 2016

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Appellate Case No. 2014-001296

National Bank of South Carolina,..... Respondent,

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Place Homeowners Association Inc.; and Suntrust  
Mortgage Inc.,..... Defendants,

Of Whom Thaddeus F. Segars is the, ..... Appellant.

PROOF OF SERVICE

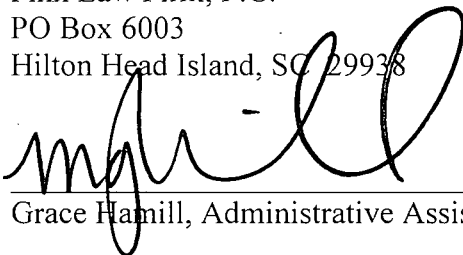
I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Respondent, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail,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

Pleadings: **Respondent's Response to Petitioner's Motion to File Petition for Certiorari Out of Time**

Counsel Served:

Thomas J. Finn, Esq.  
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November 10, 2014

  
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Grace Hamill, Administrative Assistant