

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

MAR 08 2017
SC Court of Appeals

J. C. Nicholson, Circuit Court Judge

Appellate Case No. 2016-002326

Shon Turner as Personal Representative
of the Estate of Charles Mikell, deceased, Respondent/ Appellant

v.

The Medical University of South Carolina Appellant/Respondent

**RESPONDENT/APPELLANT'S MOTION
TO FILE OUTSIDE DEADLINES
AND FOR EXTENSIONS OF TIME**

A. Motion to File Initial Brief of Appellant and Designation Outside Deadline

On November 16, 2016, Respondent/Appellant Shon Turner filed and served a Notice of Cross-Appeal relative to the lower court's ruling on the Plaintiff's Motion for Sanctions. Counsel believed the time for serving the corresponding initial brief of appellant and designation would be calculated with reference to the date when the transcript of the lower court proceedings were delivered (*see*, SCACR 208(a)(1)); or at such other time as the Court of Appeals indicated (*see*, SCACR 206)(cases involving multiple appeals).

In this particular case, counsel for the Respondent/Appellant Turner received the transcripts of the lower court proceedings from opposing counsel via email dated February 9, 2017 (*see*

attached). Believing this to be the triggering date for calculating the time when the initial brief of appellant and designation would be due under SCACR 208(a); and having received no contrary indication from the Court of Appeals, counsel for the Respondent/Appellant calendared the deadline for the initial brief of appellant and designation as Monday March 13, 2017 (February 9, plus thirty (30) days, which falls on Saturday March 11, 2017).

However, by letter dated March 2, 2017, the Court of Appeals has now informed counsel that the deadline (which is not explicitly identified) for the initial brief of appellant and designation “has expired.” The Court’s use of the past tense indicates counsel’s calculation of the filing deadline was somehow in error. Respondent/Appellant Turner therefore respectfully requests that the Court grant leave for Respondent/Appellant to file his initial brief of appellant and designation outside the deadline.

2. Motion for Extension of Time to File Initial Brief of Appellant and Designation

Respondent/Appellant’s counsel is a solo practitioner who was trial counsel for a jury trial which took place February 27 - March 3, 2017. Respondent/Appellant’s counsel is also scheduled to be overseas and away from his office from March 19 - 31, 2017. Respondent/Appellant therefore moves for an day extension of time in which to file and serve the Respondent/Appellant’s initial brief of appellant and designation until May 2, 2017.

3. Motion for Extension of Time to File Initial Brief of Respondent and Designation

Appellant/Respondent MUSC served its initial brief of appellant and designation on February 16, 2017, making the Respondent/Appellant Turner’s initial brief of respondent and designation due on March 20, 2017. Respondent/Appellant’s counsel is scheduled to be overseas and away from his office from March 19 - 31, 2017. Respondent/Appellant therefore moves for an extension of time

in which to file and serve the Respondent/Appellant's initial brief of respondent and designation until May 2, 2017.

The granting of granting of the requested relief will set May 2, 2017 as the deadline for all of the Respondent/Appellant's filings in this appeal.

Respondent/Appellant's counsel has conferred with M. Dawes Cooke, Jr., counsel for the Appellant/Respondent, and Mr. Cooke very kindly consents to the extensions of time sought hereby.

March 8, 2017

By: Robert B. Ransom

Robert B. Ransom
LEVENTIS & RANSOM
Post Office Box 11067
Columbia, SC 29211
(803) 765-2383
ATTORNEY FOR THE APPELLANT

Other counsel of record:

M. Dawes Cooke, Jr.
Alissa Fleming
BARNWELL, WHALEY, PATTERSON & HELMS
Post Office Drawer H
Charleston, SC 29402
(843) 577-7700
ATTORNEYS FOR THE RESPONDENT

Subj: **(1.554) Mikell v MUSC**
Date: 2/9/2017 10:11:26 A.M. Eastern Standard Time
From: jchilders@barnwell-whaley.com
To: bertcone@aol.com
CC: afleming@barnwell-whaley.com, dtolle@barnwell-whaley.com

Mr. Ransom,

Pursuant to your request, attached please find copies of the following:

1. Transcript of December 11, 2015 hearing before Judge Nicholson;
2. Transcript of July 18, 2016 hearing before Judge Nicholson; and,
3. Transcript of October 21, 2015 hearing before Judge Nicholson.

Sincerely,

Julia Childers, Legal Assistant to
Alissa D. Fleming Esquire

JULIA CHILDERS

BARNWELL WHALEY PATTERSON & HELMS, LLC

288 Meeting Street | Charleston SC 29401 | 843.577.7700 | 843.329.5328 (D)

jchilders@barnwell-whaley.com | [Firm Website](#) | [Twitter](#)



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PROOF OF SERVICE

I certify that I have served the Respondent/Appellant's Motion to File Outside Deadlines and for Extensions of Time on the Medical University of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on March 8, 2017, addressed to its attorney of record, M. Dawes Cook, Jr., Post Office Drawer H, Charleston, South Carolina 29402

March 8, 2017

By: Robert B. Ransom

Robert B. Ransom
LEVENTIS & RANSOM
Post Office Box 11067
Columbia, SC 29211
(803) 765-2383
Attorney for the Appellant

LEVENTIS & RANSOM

ATTORNEYS AT LAW

Post Office Box 11067
Columbia, South Carolina 29211

1913 Bull Street
Columbia, South Carolina 29201

Telephone (803) 765-2383
Facsimile (803) 799-1612 (fax)

James J. Leventis
jjleventis@aol.com

Robert B. Ransom
bertcone@aol.com

March 8, 2017

Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: Shon Turner v. MUSC
Appellate Case No. 2016-002326

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SC Court of Appeals

Dear Ms. Kitchings:

Enclosed in regard to the above-referenced appeal, please find the original and seven (7) copies of the Appellant's Motion to File Outside Deadlines and for Extensions of Time and accompanying Proof of Service, along with my office check for the \$25.00 filing fee.

Would you please return one of the file-stamped copies to me using the enclosed self-addressed, stamped envelope?

Thank you for your attention to this matter. Please call me if you have any questions or comments.

Very truly yours,



Robert B. Ransom

c: M. Dawes Cooke, Jr., Esq.
Alex Apostolou, Esq.

J

Leventis & Ransom
Post Office Box 11067
Columbia, SC 29211

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MAR 09 2017

SC Court of Appeals

Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211