

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

OCT 09 2017

L. Casey Manning, Circuit Court Judge

SC Court of Appeals

Case No. 2017-001130

Tom Efland..... Appellant,

vs.

Randy L. Mills and Richland County..... Respondents.

**RETURN TO RESPONDENT MILLS'
SECOND MOTION TO DISMISS APPEAL**

The undersigned, as counsel for the Appellant hereby files his Return to the Respondent Mills' Second Motion to Dismiss Appeal pursuant to Rule 240(e), South Carolina Appellate Court Rules.

1. As to the matters, raised in Paragraphs One (1) through Eight (8) the undersigned John C. Bradley, Jr. who is assisting Attorney S. Jahue Moore in preparing the Initial Brief and Designation of Matter to be Included in the Record on Appeal in this case has no knowledge, as he was not involved in this case until after the Respondent's First Motion to Dismiss was denied by this Court.

2. As to the issues raised in Paragraph Nine (9) through Eleven (11) of the Respondent's Motion, on or about August 24, 2017, the undersigned received a copy of the Court Reporter's Transcript in the above-referenced matter and by letter dated August

30, 2017 the undersigned notified the Clerk of Court and all counsel of record that he had received the Transcript from the Court Reporter.

3. On the same day the undersigned left South Carolina to travel out of State for the purpose of getting married and for a short vacation following the wedding.

4. Prior to leaving the office for approximately two (2) weeks, the undersigned counsel inadvertently failed to calendar the receipt of the Transcript and the deadline for filing Appellant's Initial Brief and Designation of Matter to be Included in the Record on Appeal or to instruct his office staff to calendar the deadline prior to leaving the State of South Carolina.

5. On Monday, October 2, 2017, he called the Clerk's Office and spoke with Amelia regarding the due date of the Initial Brief and Designation of Matter to be Included in the Record on Appeal in order to request an extension of time in which to file them as the undersigned had another brief due in this Court on Thursday, October 5, 2017, which was taking more time to prepare than anticipated. During this phone call, Counsel subsequently learned that the Initial Brief and Designation of Matter to be Included in the Record on Appeal had been due on September 25, 2017, and that a Motion to Dismiss the Appeal was filed by counsel for Respondent Mills on September 29, 2017. The undersigned immediately prepared and filed a Motion for Extension of Time to prepare, file and serve Appellant's Initial Brief and Designation of Matter to be Included in the Record on Appeal.

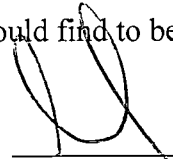
6. The failure to timely file Appellant's Initial Brief and Designation of Matter on September 25, 2017, was inadvertent and due solely to the undersigned's unintended failure to calendar receipt of the transcript and the due date of Appellant's Initial Brief and

Designation of Matter to be Included in the Record on Appeal. It was not part of any effort to delay this matter or to prejudice the rights of any party to this action.

7. Rule 263(b) provides that this Court may extend the time prescribed for performing any act required by the SCACR.

8. The undersigned respectfully requests that this Court deny the Respondent Mills' Second Motion to Dismiss Appellant's Appeal and to grant Appellant the Relief Requested in his Motion previously filed with this Court.

WHEREFORE, Appellant above named, respectfully requests that this Court deny Appellant Mills' Motion and issue its Order allowing for filing of the Appellant's Initial Brief and Designation of Matter to be Included in the Record on Appeal out of time and also to extend the deadline for the service and filing of his Initial Brief and Designation of Matter on Appeal for any time this Court would find to be reasonable and proper.



S. Jahue Moore, Esquire SC Bar #4063
John C. Bradley, Jr., Esquire SC Bar #7869
MOORE TAYLOR LAW FIRM, P.A.
Post Office Box 5709
West Columbia, SC 29171
(803) 796-9160
ATTORNEYS FOR APPELLANT

West Columbia, South Carolina
October 5, 2017

Desa Ballard, Esquire
BALLARD & WATSON
Post Office Box 6338
West Columbia, SC 29171
(803) 796-9299

Mitchell Willoughby, Esquire
WILLOUGHBY & HOEFER, PA

P.O. Box 8416
Columbia, SC 29202
(803) 252-3300
ATTORNEYS FOR THE RESPONDENTS

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

RECEIVED

OCT 09 2017

SC Court of Appeals

Case No. 2017-001130

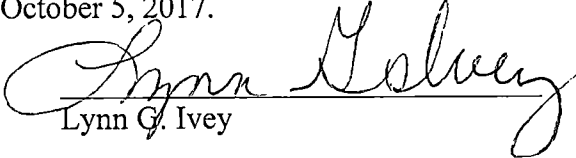
Tom Efland Appellant,

vs.

Randy L. Mills and Richland County Respondents.

PROOF OF SERVICE

I, Lynn G. Ivey, an employee of Moore Taylor Law Firm, PA, certify that I have served the Return of Respondent Mills' Second Motion to Dismiss Appeal by placing the same in the US Mail with sufficient postage, addressed to: Desa Ballard, Esquire, Ballard & Watson, Post Office Box 6338, West Columbia, SC 29171 and Mitchell Willoughby, Esquire, Willoughby & Hoefler, Post Office Box 8416, Columbia, SC 29202 on October 5, 2017.


Lynn G. Ivey

West Columbia, South Carolina
October 5, 2017

RECEIVED

OCT 09 2017

SC Court of Appeals

S. Jahue Moore†
J. Mark Taylor*
C. Vance Stricklin, Jr.
James Edward Bradley†
Sheila McNair Robinson
Christian G. Spradley
C. David Sawyer, Jr.
William H. Edwards
Stanley L. Myers
Jane H. Downey*
S. Jahue Moore, Jr.
John C. Bradley, Jr.
Melissa K. Moore
William B. Fortino
Ralph Nichols Riley, Jr.
Amber Cary Fulmer
Sarah Taylor Cassidy
Justin Thomas Williams

Robert D. Hazel
OF COUNSEL
Billy C. Coleman
RETIRED

October 5, 2017

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RE: Tom Efland v. Randy L. Mills and Richland County
C.A. No.: 2016-CP-40-05336
Appellate Case No. 2017-001130

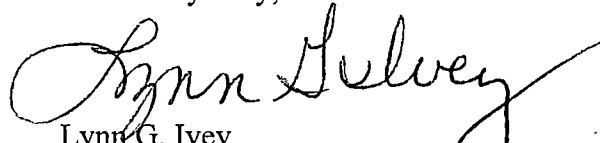
Dear Ms. Kitchings:

Enclosed please find an original and seven (7) copies of Appellant's Return to Respondent Mills' Second Motion to Dismiss Appeal, We would appreciate your office filing the document and returning the extra copy to us. I enclose a self-addressed, stamped envelope for your convenience.

Under cover of this letter am serving counsel for respondent with this motion.

Thank you for your assistance with this filing.

Yours very truly,

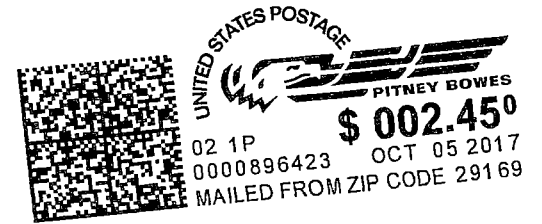

Lynn G. Ivey
Assistant to John C. Bradley, Jr.

Enclosures

cc: Desa Ballard, Esquire
Mitchell Willoughby, Esquire

1700 Sunset Boulevard, West Columbia SC 29169 | PO Box 5709, West Columbia SC 29171

TEL 803.796.9160 FAX 803.791.8410 www.mooretaylorlaw.com



First Class Mail

MTI MOORE | TAYLOR
LAW FIRM

PO Box 5709, West Columbia SC 29171
1700 Sunset Boulevard, West Columbia SC 29169

The Honorable Jenny Abbott Kitchens
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
OCT 09 2017
SC Court of Appeals