

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

Case No. 2018-000728

Christie MacConnell,

Appellant,

v.

Frances C. Welch,

Respondent.

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DEC 03 2018
SC Court of Appeals

MOTION TO FILE LATE FINAL BRIEF AND RECORD ON APPEAL

M. Richardson Hyman, Jr.
Post Office Box 127
Charleston, South Carolina 29402
(843) 416-1047
Attorney for Appellant

COMES NOW, M. Richardson Hyman, Jr., attorney for the Appellant, and does respectfully move this Honorable Court for an Order granting leave to file a late final brief and proof of delivery of Record on Appeal.

The Record on Appeal was timely served upon the Respondent by hand delivery on 19 October 2018, as evidenced by the Proof of Service on file in this case, dated and clocked by the Court of Appeals on 22 October 2018.

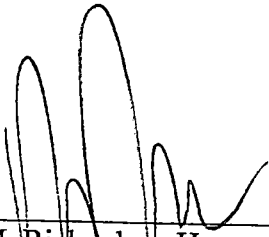
Appellant's Final Brief was served upon Respondent on 17 November 2018 by United States Post, as evidenced by the Proof of Service on File in this case, and both the Final Briefs and Record on Appeal were clocked by the South Carolina Court of Appeals on 19 November 2018.

Appellant's brief should have been filed within twenty days of delivery of the Record on Appeal (19 October 2018). However, subsequent to the delivery of the record on appeal, the undersigned lost his calendar while at the courthouse. Several days were spent trying to reconstruct the calendar, and the undersigned miscalculated the date upon which the brief were due. This apparently was due to a miscommunication when the undersigned was being told that the Record on Appeal was served on the 19th, which meant 19th of October as a SERVICE date, the undersigned, misunderstood, the 19th to mean the 19th of NOVEMBER as the due date. Accordingly, the undersigned erroneously entered that date as the date the Final Briefs were due to be served and filed, as well as the actual filing of the ROA which had been timely served earlier. (Affidavit of M. Richardson Hyman, Jr.)

The Counsel for the Respondent has most graciously and generously indicated that he has no objection to the court granting an allowance for a late filing. (Exhibit 1 to the Affidavit of M. Richardson Hyman, Jr.)

Currently, all matters which are required to be filed with the court have been filed, with the only outstanding question being as to whether the Court will accept the late filing which is the subject of the undersigned's motion.

For the reasons, set forth herein, with there being no objection from the Respondent, your undersigned most respectfully prays that this Honorable Court issue its lawful Order authorizing the late filing.



M. Richardson Hyman, Jr.
Post Office Box 127
Charleston, South Carolina 29402
(843) 416-1047
Attorney for Appellant

1 December 2018

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) AFFIDAVIT OF M. RICHARDSON
) HYMAN, JR.

COMES NOW YOUR AFFIANT, M. RICHARDSON HYMAN, JR., and does Swear and Depose Upon his lawful Oath as follows:

I am the attorney of record for the Plaintiff in the case of *McConnell v. Welsh*, 2018-00728.

The service of the Record on Appeal on the Respondent occurred upon 19 October 2018.

A week or so, after that, the precise date eludes me, I was at the Court House and either lost my calendar, or someone inadvertently picked it up. I presume the former as my name was in it and no one ever contacted me.

All of my agenda is personally kept by me in that calendar.

I took a couple of days to reconstruct a new calendar.

The date upon which briefs were due was noted in the original calendar as 20 days from the date of service of the ROA.

When reconstructing this matter, we went through the file and calculated off the date of the service of the ROA.

However, in doing so, someone called out that date to me as being 19. What she was saying to me was that the ROA was served on 19 October.

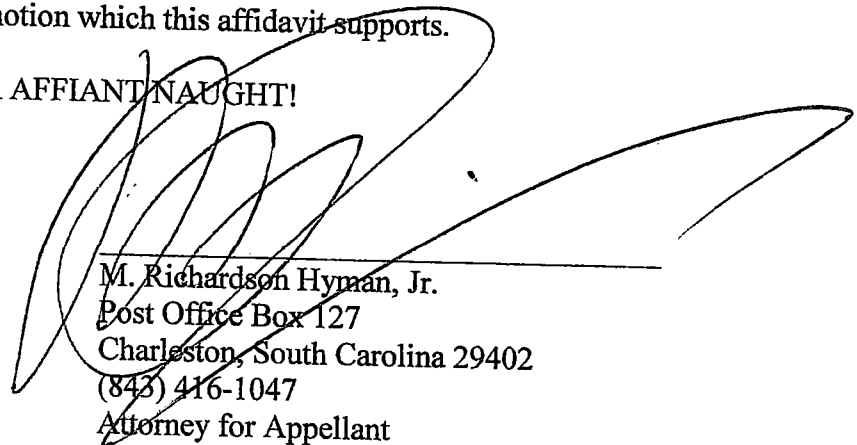
What I was understanding her to say was that the due date for final briefs was 19 November.

Accordingly, based upon my misunderstanding of what was being told to me, I erroneously entered the due date in my calendar as 19 November and believed the due date for

filing and serving the final brief and record on appeal fell on 19 November, when in fact that was not the correct date at all.

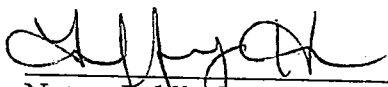
Subsequently, on 28 November 2018 my opposing counsel has most graciously emailed me the attached Email marked as Exhibit 1 hereto, indicating no opposition to the extension of time for the filing, as sought in the motion which this affidavit supports.

FURTHER SAYETH YOUR AFFIANT NAUGHT!

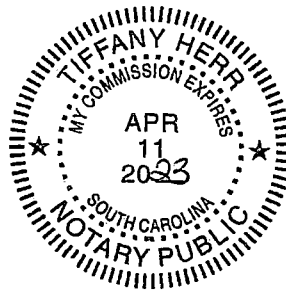


M. Richardson Hyman, Jr.
Post Office Box 127
Charleston, South Carolina 29402
(843) 416-1047
Attorney for Appellant

SWORN AND SUBSCRIBED TO before me by the foregoing M. Richardson Hyman, Jr.



Notary Public for South Carolina
My commission expires: 4-11-23



Chris Ramsey <cramsey@bosticlaw.com>

11/28/2018 4:16 PM

Welch/MacConnell - motion for extension

To mrhchas@comcast.net <mrhchas@comcast.net>

Richard -

Hope you are doing well and had a good Thanksgiving holiday. I saw your recent submission asking for an extension of time to file final briefs. Of course we have no objection. If you need anything from us please let me know.

Chris

Christopher M. Ramsey
The Bostic Law Group, P.A.
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Charleston, SC 29414
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

Case No. 2017-CP-10-3672

Christie MacConnell,

Appellant,

v.

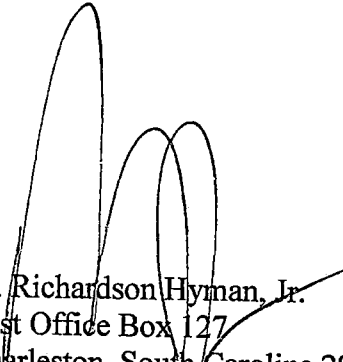
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PROOF OF SERVICE

I certify that I have served the Motion to File Late Final Brief and Record on Appeal on Frances C. Welch by depositing a copy of it in the United States Mail, postage prepaid, on 1 December 2018, addressed to her attorneys of record, James E. Reeves, Esquire & Christopher M. Ramsey, Esquire, Bostic Law firm, 2236 Ashley Crossing Dr, Charleston, SC 29414.


M. Richardson Hyman, Jr.
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Attorney for Appellant



M. RICHARDSON. HYMAN, JR.

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1 December 2018

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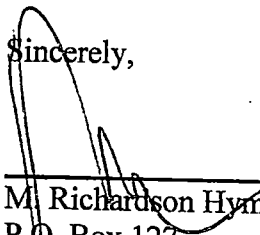
The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Christy MacConnell, Appellant v. Frances C. Welch, Respondent, Case No.
2018-000728

Dear Ms. Kitchings:

Enclosed for filing the Appellant's Motion to File a Late Brief and Record on Appeal along with six copies and proof of delivery.

Sincerely,



M. Richardson Hyman, Jr.
P.O. Box 127
Charleston, SC 29402
(843) 416-1047
Attorney for Appellant

cc:
James E. Reeves, Esquire
400 N Cedar Street
Summerville SC 29483
(843) 832 7337

Attorney for the Respondent

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Attorney for the Respondent

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