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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM SOUTH CAROLINA  
Workers' Compensation Commission  
Appellate Panel

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Appellate Case No. 2018-001234

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RECEIVED  
MAR 15 2019  
SC Court of Appeals

Pamela Cartee, Claimant,

v.

SC Judicial Department, Employer, and State Accident  
Fund, Carrier, Defendants.

IN RE:

Preston F. McDaniel, Esquire, and John M. Milling,  
Esquire,.....Appellants,

v.

South Carolina Workers' Compensation Commission,  
.....Respondent.

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MOTION FOR AN ORDER OF  
THE COURT EXTENDING THE TIME  
TO FILE APPELLANTS' INITIAL BRIEF  
AND DESIGNATION OF MATTER UNTIL  
30 DAYS AFTER THE LAST DECISION OF  
THE COURT AS TO APPELLANTS' PETITION FOR REHEARING  
AND MOTION TO REMAND AND STAY BOTH  
CURRENTLY PENDING BEFORE THE COURT

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1. That the Appellants' filed a Petition for Rehearing  
pursuant to the Appellate Court Rules as to the Decision of Judge

McDonald denying the Motion to Dismiss the Appeal of the Appellants without prejudice based on a lack of jurisdiction of the Court due to a lack of finality before the Commission. The Petition for Rehearing was filed on February 8, 2019 upon which no decision has been made by the Court. A Motion to Dismiss under the Appellate Court Rules automatically stays the time limits for perfecting the appeal. Rule 240(b), SCACR.

2. That in addition on February 19, 2019 because of irregularities in the procedure before the Commission not shown in and outside of the Record, the Appellants filed a Motion to Remand this matter either to the Commission or to the Circuit Court for discovery to finalize the Record and to stay the appeal pending that discovery process and the completion of the Record for purposes of finalizing the Record on Appeal. A Return was filed March 1<sup>st</sup>, 2019. If that Motion is granted, the Motion would also stay the appeal process pending that discovery process and completion of the Agency Record for review of the Court as part of the Record on Appeal. No decision and no hearing as of the filing of this Motion has been made by the Court on that Motion.

3. That the Appellants have requested a hearing on both the Petition for Rehearing and on the Motion to Remand and Stay the Appeal. Part of the basis for the request for a hearing is that these are not standard procedural motions as to the Record and the

Appellate process under the SC Appellate Court Rules, but are substantive motions filed as to the jurisdiction of the Court and also under the Administrative Procedures Act and in particular, SC Code §1-23-320(G) (Agency Record) and §1-23-380(4) (Remand to Agency as to the Record) as to the Record on Appeal.

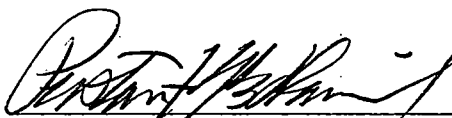
4. That because of the date of filing of these Motions (2/8 and 2/19) and having not heard from the Court either as to a decision on the Petition for Rehearing and/or on the Motion to Remand and Stay the Appeal, the Appellants also on February 19<sup>th</sup> filed a Motion requesting an extension of time for filing the Initial Brief of the Appellants and Designation of Matter, in which the Appellants noted no decision had been made on the Petition for Rehearing and/or the Remand, granted an extension until March 25<sup>th</sup> to file same. That Motion was filed as a stop-gap because of the Appellants not receiving a Decision on either the Petition for Rehearing or the Motion to Remand and stay the appeal.

Wherefore, for the above-referenced reasons, the Movants would respectfully request a Decision as soon as possible from the Court simply granting an extension of thirty (30) days following the latest date of Decision by the Court on the Motion to Remand and to Stay the Appeal and the Petition for Rehearing as to the Order of Judge McDonald. This Motion is made as part of judicial

economy and also the economy of time for the Appellants.

WE SO MOVE.

Respectfully submitted:



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Preston F. McDaniel, Esquire  
MCDANIEL LAW FIRM  
1315 Elmwood Avenue  
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(803) 771-7211

and

John M. Milling, Esquire  
MILLING LAW FIRM  
Post Office Box 519  
Darlington, SC 29532  
(843) 393-4083

Appellants

March 14, 2019

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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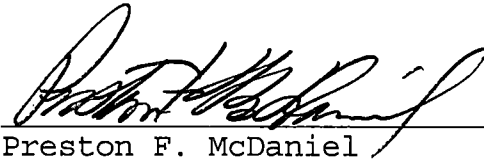
PROOF OF SERVICE

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I certify that I have served the MOTION FOR AN ORDER OF  
THE COURT EXTENDING THE TIME TO FILE APPELLANTS' INITIAL BRIEF  
AND DESIGNATION OF MATTER UNTIL 30 DAYS AFTER THE LAST DECISION  
OF THE COURT AS TO APPELLANTS' PETITION FOR REHEARING AND MOTION

TO REMAND AND STAY BOTH CURRENTLY PENDING BEFORE THE COURT by depositing a copy of same in the United States Mail, postage prepaid, on March 14, 2019 addressed to:

T. Parkin C. Hunter, Esquire  
Harley L. Kirkland, Esquire  
Post Office Box 11549  
Columbia, South Carolina 29211-1549



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Preston F. McDaniel  
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and

John M. Milling  
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Appellants

March 14, 2019

**McDANIEL LAW FIRM**  
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Proudly representing injured workers  
for over 30 years.

Preston F. McDaniel

Telephone (803) 771-7211

Matthew Robertson

Facsimile (803) 252-0709

March 15, 2019

**VIA HAND DELIVERY**

Honorable V. Claire Allen  
Deputy Clerk  
SC Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29211

RE: Pamela Cartee v. SCJD (Preston F. McDaniel)  
Appellate Case No. 2018-001234

Dear Ms. Allen:

Attached is a Motion for an extension of time to file the Appellants' Initial Brief and Designation of Matter simply allowing for the Brief and Designation of Matter to be filed thirty (30) days after the last decision by the Court on my Motion to Remand to the Commission or my Petition for Rehearing on the motion to dismiss our appeal without prejudice due to a lack of jurisdiction by the Court due to no final Order by the Commission. Of course, if either one of those is granted, the appeal would be stayed or dismissed thus not requiring the submission of an Initial Brief or a Designation of Matter at this time.

Since I could not get the Motion to Stay and to Remand to the Commission to finalize the Record for appeal filed until February 19<sup>th</sup>, on that same date I filed a motion for an extension to file which was granted until March 25<sup>th</sup>. In that Motion I noted that the Motion to Remand and the Petition for Rehearing were still pending and asked for the direction of the Court.

I filed that Motion for an extension really as a stop-gap to give the Appellants and the Court time to address a more appropriate extension based on the Petition and Remand Motion.

In this current Motion, I am simply trying to prevent unnecessary work and having to take away from my other cases and requesting an extension of time simply providing that we file the Initial Brief and Designation of Matter thirty (30) days after the last date of a decision on either the Motion to

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Honorable V. Claire Allen

March 15, 2019

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Remand or the Petition for Rehearing, whichever is the latest; and of course, assuming that both are denied. Otherwise, extensions would not be necessary.

This way we don't have to constantly ask for extensions nor do we have to spend a tremendous amount of time on the Initial Brief and Designation of Matter when that may not be due or an issue at this time.

I appreciate your consideration of this request, and I would appreciate it if someone from the Court could let me know something, one way or the other by Monday as I have a Supreme Court argument on March 25<sup>th</sup> and will have to find the time Tuesday and Wednesday to finalize the Brief and Designation.

As always, I appreciate all the courtesies and kindnesses shown to me by the Court and by copy of this letter I am notifying and serving Counsel of Record with the Motion.

Sincerely yours,



Preston F. McDaniel

PFM/kth  
Enclosures

cc: T. Parkin Hunter, Esquire  
Harley L. Kirkland, Attorney at Law  
John M. Milling, Esquire