

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM HORRY COUNTY

William H. Seals, Jr., Circuit Court Judge

Appellate Case No. 2019-001134

City of Myrtle Beach, For Itself and a Class of Similarly Situated Plaintiffs, Respondents,

v.

Horry County, Appellant.

**RESPONDENTS' MOTION FOR ENLARGEMENT OF TIME TO FILE RETURN
TO APPELLANT'S PETITION FOR WRIT OF SUPERSEDEAS**

The City of Myrtle Beach ("City"), on behalf of itself and all other similarly situated plaintiffs ("Respondents"), hereby submits this motion to enlarge the time within which it may submit its return to the July 19, 2019, Petition of Appellant Horry County's ("County") for a Writ Supersedeas ("Petition") and file any additional matter for the appendix pertaining to same. The requested enlargement is for a period of five (5) days following the issuance of any order by the Supreme Court denying Appellant's pending motion to certify this appeal. Alternatively, the City requests that it be permitted to respond to the Petition and provide matter for the appendix within the time frame provided for in Rule 240(e), SCACR.

BACKGROUND

The County filed its notice of appeal from the circuit court's June 21, and July 10, 2019 orders on July 11, 2019. On the same date, the County filed a motion with the Supreme Court

for certification of this appeal, which motion is now pending. The City has on even date hereof filed a return to this motion consenting to certification of this appeal to the Supreme Court, a copy of which return is attached hereto and incorporated herein by reference as Exhibit A. On July 19, 2019, the County filed a twenty-one (21) page Petition for Writ of Supersedeas of the circuit court's orders with an appendix totaling one thousand (1,000) pages, and amended its Notice of Appeal to include the circuit court's July 17, 2019, order denying the County's motion for supersedeas. On July 19, 2019, the Clerk of this Court issued instructions to the City that it is required to file its return to the Petition by July 25, 2019, and to the County that its reply to such return must be filed by July 29, 2019.

STANDARD

This Court may, in its discretion, extend the time for responding to a petition for writ of certiorari under Rule 263, SCACR.

ARGUMENT

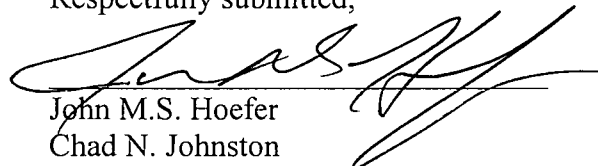
The diminished time within which the City must now respond to the Petition is not a result of any apparent request by the County for a shortening of the time within which the City's return is due. *Cf.* Rule 263, SCACR. Furthermore, this diminished time requires a return by the City while the County's motion to certify this appeal to the Supreme Court is pending – a motion with which the City has agreed. Finally, this diminished time will require review of a 1,000 page appendix and the preparation of a return to the Petition within a time period which does not account for an intermediate Saturday and Sunday. *Cf.* Rule 263(a), SCACR. For each of these reasons, the City respectfully submits that the Court should enlarge the time within which a return to the Petition must be filed. The City requests that such enlargement be either (a) for a period of five (5) days following the issuance of any order by the Supreme Court acting on

Appellant's pending motion to certify this appeal¹ or (b) for the time within which the City would otherwise be required to respond, which is July 29, 2019. *See* Rule 240(e), SCACR.

CONCLUSION

WHEREFORE, the City respectfully requests that this Court grant an enlargement of time to respond to the Petition for the reasons set forth herein and grant such other relief as this Court deems just and proper.

Respectfully submitted,



John M.S. Hoefer
Chad N. Johnston

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Attorneys for Respondents

Columbia, South Carolina
July 19, 2019

¹ Should Appellant's motion to certify be granted, then the County's motion for supersedeas will be transferred to the Supreme Court and the City will file its return with that Court; if it is denied, then the return would be filed with this Court and the supersedeas would be ripe for this Court's consideration.

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CERTIFICATE OF SERVICE

This is to certify that I, a Legal Assistant with the law firm Willoughby & Hoefler, P.A., have caused to be served this day one (1) copy of Respondent City of Myrtle Beach's **Motion for Enlargement of Time to File Return to Appellant's Petition for Writ of Supersedeas** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows, or via hand delivery where indicated below:

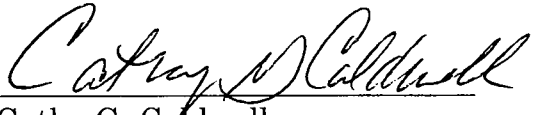
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VIA HAND DELIVERY

William Grayson Lambert, Esquire
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Cathy G. Caldwell

Columbia, South Carolina
This 19th day of July, 2019.

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July 19, 2019

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RE: City of Myrtle Beach, For Itself and a Class of Similarly Situated
Plaintiffs, Respondents, *v.* Horry County, Appellant; Appellate Case No.
2019-001134

Dear Ms. Kitchings:

On behalf of Respondents, enclosed for filing please find the original and six (6) copies of a Motion to Enlarge Time to respond to Appellant's Petition for Writ of Supersedeas in the above-referenced appeal. Also enclosed is our check for Fifty and no 100ths (\$50) dollars for the filing fee.

I would appreciate very much your acknowledging receipt of the enclosed documents by file stamping the extra copy of same and returning it to me via my courier.

I call to the Court's attention that, on even date hereof, Respondents have filed with the Supreme Court a return to Appellants' motion to certify the instant appeal and have therein agreed that same should be certified.

The Honorable Jenny Abbott Kitchings

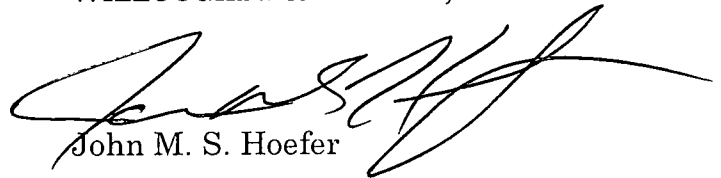
July 19, 2019

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By copy of this letter, I am serving counsel for Appellant and enclose a certificate of service to that effect. If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,

WILLOUGHBY & HOEFER, P.A.



John M. S. Hoefer

cc: Henrietta U. Golding, Esquire
James K. Gilliam, Esquire
Adam R. Artigliere, Esquire
W. Grayson Lambert, Esquire