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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM ALLENDALE COUNTY  
Circuit Court

Lawton McIntosh, Circuit Court Judge

Case No. 2019-000905

**RECEIVED**  
FEB 07 2020  
SC Court of Appeals

J. Morgan Kears, Personal Representative of the Estate of G.H. Kears .....Appellant,

v.

The Kears Family Education Trust, William Gordon Kears,  
Elizabeth Kears Gooding, Julia Kears Sharp, Rachael Kears  
Best, Joseph Weber Kears, and John Morgan Kears, of which  
all are named individually and as Trustees of the Kears Family  
Education Trust U/A/D Nov. 05, 1992..... Respondents.

APPELLANT’S MOTION FOR EXTENSION AND RETURN TO THE THIRD  
MOTION FOR EXTENSION OF RESPONDENT JULIA KEARSE SHARP

Appellant hereby moves the Court for an extension to file Appellant’s Reply to Respondent Elizabeth Kears Gooding’s Initial Brief. Appellant requests a minimum extension of 10 days, to February 24, 2020, and, if the Court grants Respondent Julia Kears Sharp’s Third Motion for Extension to file her Initial Brief, an additional period ending 10 days after the same is later filed.<sup>1</sup>

As to the minimum 10 day request, Ms. Gooding’s Initial Brief was served by mail on February 3, 2020, and was received and first seen by Appellant on February 5, 2020. That gave

<sup>1</sup> Appellant refers to Respondents hereinafter as Ms. Gooding and Ms. Sharp for simplicity.

Appellant's undersigned attorney just six working days to reply to Ms. Goodings's 35 page Initial Brief in the midst of an already full workload. In fact, Appellant's counsel has yet to finish reading the Initial Brief as of this filing. In addition, Appellant's counsel will be unable to dedicate significant time to this matter over the weekend due to other conflicts.

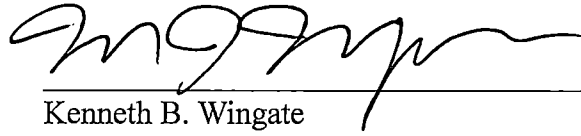
As to the extended request, if the Court grants Ms. Sharp's Third Motion for Extension, Appellant would like the opportunity to work on his Reply to both Initial Briefs simultaneously for greater working efficiency. Appellant may even be able to consolidate his Reply as to both Respondents for even greater efficiency for not only Appellant, but also the Court and opposing counsel. Further, deferring Appellant's Reply until after both Initial Briefs are filed will not delay this appeal or otherwise prejudice anyone of the parties, as the Court would be awaiting the subsequent Initial Brief anyway. In contrast, requiring Appellant to file his Reply before Ms. Sharp's Initial Brief will give her an unfair advantage to alter arguments that Appellant may show to be flawed in his Reply to Ms. Gooding. Finally, Appellant has requested only one 30 day extension to date, whereas Ms. Sharp's will have received 119 extra days if her Third Motion for Extension is granted. Appellant's undersigned counsel would venture to guess that his own time commitments are no less stringent than that of Ms. Sharp's counsel. Thus, if 119 days is warranted for Ms. Sharp's counsel, Appellant's request for far less time is eminently reasonable.

Alternately, if and only if the Court would not be willing to grant Appellant's extension to file his Reply to Ms. Gooding until after Ms. Sharp has filed her Initial Brief, then Appellant hereby objects to the Court granting Ms. Sharp's Third Motion for Extension. As stated in the Court's Order granting Ms. Sharp's Second Motion for Extension, "No further extension shall be granted absent extraordinary circumstances." However, Ms. Sharp's Third Motion for Extension provides as a justification only that her attorneys are involved in ongoing litigation.

Although Appellant's undersigned counsel can certainly empathize with busy workloads, this would seem to be a hazard of the profession realized by all counsel involved in this matter and therefore not "extraordinary." Furthermore, Appellant understands that the V.C. Summer litigation referenced by Ms. Sharp's counsel has been ongoing for quite a while and, with the trial currently scheduled for April 20, 2020, it would seem that a third extension would not relieve but actually exacerbate counsels' scheduling concerns as they move closer to trial. In any event, having already received 89 days of extensions between her initial due date of November 6, 2017 and the current deadline of February 3, 2020, plus the initial 30 days, Ms. Sharp's counsel should have had ample time to figure out when they could address Appellant's Initial Brief in the midst of a busy workload that is common to the profession. Finally, as discussed in Appellant's Returns to Ms. Sharp's first two motions for extension, each of Ms. Sharp's previously motions for extension were not timely filed and, therefore, Ms. Sharp has already been the recipient of a great deal of deference as to the 89 days of extensions already received.

Ultimately, as Appellant expects Ms. Sharp's Initial Brief to be substantially duplicative of Ms. Gooding's Initial Brief, it may benefit all concerned for Appellant to file a Reply only to Ms. Gooding so that this matter may proceed. However, Appellant leaves that decision to the Court, and merely requests additional time if Ms. Sharp's Third Motion for Extension is granted. In sum, judicial fairness and efficiency dictate that if Ms. Sharp's Third Motion for Extension is granted, that Appellant also receive an extension to file his Reply or Replies to both Ms. Gooding and Ms. Sharp simultaneously. However, if Ms. Sharp's Third Motion for Extension is denied, Appellant simply requests a mere 10 day extension of the deadline to file his Reply to Ms. Gooding's Initial Brief.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. J. Myers', is written over a horizontal line.

Kenneth B. Wingate

Matthew J. Myers

Sweeny, Wingate & Barrow, P.A.

Post Office Box 12129

Columbia, South Carolina 29211

Telephone: (803) 256-2233

Attorneys for Appellant

Columbia, South Carolina

February 7, 2020

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM ALLENDALE COUNTY  
Circuit Court

Lawton McIntosh, Circuit Court Judge

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v.

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Best, Joseph Weber Kears, and John Morgan Kears, of which  
all are named individually and as Trustees of the Kears Family  
Education Trust U/A/D Nov. 05, 1992..... Respondents.

PROOF OF SERVICE

I certify that I have served Appellant’s Motion for Extension and Return to the Third Motion for Extension of Respondent Julia Kears Sharp by depositing a copy of same into the United States Mail, First-class postage prepaid, on February 7, 2020, addressed to the respondents or their attorneys of record as follows:

Daniel A. Speights, Esquire  
Speights & Runyan  
100 Oak Street, East  
Post Office Box 685  
Hampton, SC 29924  
Attorney for Respondent Julia Kears Sharp

Whitney Boykin Harrison, Esquire  
McGowan Hood & Felder, LLC  
1517 Hampton Street  
Columbia, SC 29201  
Attorney for Respondent Julia Kears Sharp

Kathleen Chewing Barnes, Esquire  
Barnes Law Firm, LLC  
PO Box 897  
Hampton, SC 29924  
Attorney for Respondent Elizabeth Kears Gooding

Stephen M. Slotchiver, Esquire  
Slotchiver & Slotchiver, LLP  
751 Johnnie Dodds Blvd, Ste. 100  
Charleston, SC 29464  
Attorney for Respondent Elizabeth Kears Gooding

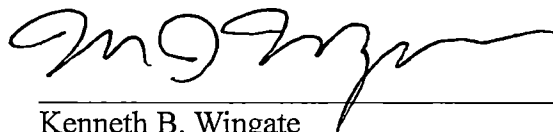
William Gordon Kears  
PO Box 221  
Fairfax, SC 29827  
Pro se

Rachael Kears Best  
5055 Lakeshore Drive  
Columbia, SC 29206  
Pro se

Joseph Weber Kears  
6620 Merrill Road  
Columbia, SC 29209  
Pro se

John Morgan Kears  
Post Office Box 521  
Allendale, SC 29810  
Pro se in individual capacity

I certify that the Kears Family Education Trust is heretofore unrepresented in this matter and otherwise has no known address, and I have therefore delivered an additional copy of the Return to Motion for Extension Respondents with the Clerk of Court for the South Carolina Court of Appeals on February 7, 2020, pursuant to Rule 262, SCACR(b).



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Kenneth B. Wingate  
Matthew J. Myers  
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1515 Lady Street  
Columbia, South Carolina 29201  
(803) 256-2233  
Attorneys for Appellant



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SWEENEY WINGATE & BARROW P.A.

SC Court of Appeals

February 7, 2020

Reply to: Main Office  
Matthew J. Myers  
(803) 256-2233 x7118  
mjm@swblaw.com

**SENT VIA HAND DELIVERY**

South Carolina Court of Appeals  
Attn: Jenny Abbott Kitchings, Clerk of Court  
1220 Senate Street, Columbia, SC 29201

RE: J. Morgan Kearse, Personal Rep. v. The Kearse Family Education Trust, et al.  
Case No.: 2019-000905  
Our File: 5330-10329

*Dear Ms. Kitchings:*

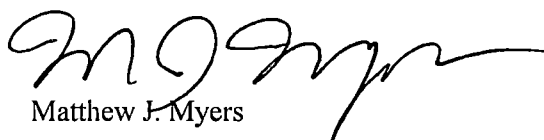
Please find enclosed for filing in the above referenced matter the following:

- Appellant's Motion for Extension and Return to the Third Motion for Extension of Respondent Julia Kearse Sharp, and Proof of Service of the same
- One copy to clock and return with the courier
- Six copies for the Court pursuant to Rule 240(e), SCACR.
- One additional copy for the Court for service upon Respondent Kearse Education Trust as provided in Rule 262(b), SCACR.
- The \$50 filing fee.

Thank you for your assistance, and please let me know if you need anything further at this time.

Yours truly,

**SWEENEY, WINGATE & BARROW, P.A.**



Matthew J. Myers

Enclosures

cc: Kathleen Barnes, Esq.  
Whitney B. Harrison, Esq.  
Rachael Kearse Best  
Gordon Kearse  
Joseph Kearse  
Morgan Kearse, Esq.  
Steven Slotchiver, Esq.  
Daniel Speights, Esq.