

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Kristi Lea Harrington, Circuit Court Judge

Case No. 2008-CP-10-0049

Mark F. Teseniar & Nan M. Teseniar, on behalf of themselves and  
others similarly situated, and Twelve Oaks At Fenwick Property Owners  
Association, Inc., (from December 16, 2008 to present).....Respondents,

v.

Professional Plastering & Stucco, Inc.,..... Defendant,

-and-

National Fire & Marine Insurance Company, Inc. ....Petitioner.

**RESPONDENTS' MOTION TO FILE OUT OF TIME**

**COME NOW** the above-named Respondents, by and through their undersigned  
counsel, and herewith move this Court pursuant to Rules 224 and 226(f), SCACR, for an  
Order allowing Respondents' to File Out of Time their Return to the Petition for Writ of  
Certiorari. This Motion is made upon the following grounds:

1. By and through the undersigned attorney, on January 22, 2013, Respondents  
requested a thirty (30) day Extension of Time to file their Return to the Petition, without  
objection.

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

---

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Kristi Lea Harrington, Circuit Court Judge

---

Case No. 2008-CP-10-0049

---

Mark F. Teseniar & Nan M. Teseniar, on behalf of themselves and others similarly situated, and Twelve Oaks At Fenwick Property Owners Association, Inc., (from December 16, 2008 to present).....Respondents,

v.

Professional Plastering & Stucco, Inc.,..... Defendant,

-and-

National Fire & Marine Insurance Company, Inc. ....Petitioner.

---

**RESPONDENTS' MOTION TO FILE OUT OF TIME**

---

COME NOW the above-named Respondents, by and through their undersigned counsel, and herewith move this Court pursuant to Rules 224 and 226(f), SCACR, for an Order allowing Respondents' to File Out of Time their Return to the Petition for Writ of Certiorari. This Motion is made upon the following grounds:

1. By and through the undersigned attorney, on January 22, 2013, Respondents requested a thirty (30) day Extension of Time to file their Return to the Petition, without objection.

**RECEIVED**

MAR 03 2013

S.C. SUPREME COURT

**RECEIVED**

MAR 05 2013

S.C. SUPREME COURT

2. On January 25, 2013, this Court granted the Motion for Extension, setting a due date for Respondents' Return of February 22, 2013.

3. The undersigned counsel is handling all matters related to the appeal, but for unknown reasons was unaware the Court's January 25th Order had been issued until receiving a courtesy call this afternoon from the Court.

4. Respondents' Return has been transmitted for filing with the Court simultaneously herewith. Upon information and belief, Petitioner has not been prejudiced by the brief delay.

5. Prior to filing this Motion, Respondents consulted with counsel for Petitioner, who has no objection to the relief requested herein.

5. Under the circumstances described above, the undersigned respectfully requests that the Court accept the filing of Respondent's Return to the Petition, out of time.

Respectfully submitted,

**FOR RESPONDENTS:**



MICHAEL A. TIMBES

JESSE A. KIRCHNER

THURMOND KIRCHNER TIMBES & YELVERTON, P.A.

15 Middle Atlantic Wharf, Suite 101

Charleston, South Carolina 29401

Phone: (843) 937-8000

Fax: (843) 937-4200

Justin O'Toole Lucey, Esquire

Post Office Box 806

Mt. Pleasant, SC 29465

W. Jefferson Leath, Jr., Esquire

Post Office Box 59

Charleston, SC 29402

Phillip Ward Segui, Jr., Esquire  
864 Lowcountry Blvd., Suite A  
Charleston, SC 29464

John T. Chakeris, Esquire  
Post Office Box 397  
Charleston, SC 29402

February 28, 2013  
Charleston, South Carolina

**CERTIFICATE OF SERVICE**

The undersigned herewith certifies that she, on this date, did mail and serve via regular U.S. Mail one (1) copy of the foregoing "Respondents' Motion to File Out of Time" with proper postage affixed thereto, to all counsel of record, at the following addresses:

John L. McCants  
Ellis Lawhorne & Sims, P.A.  
Post Office Box 2285  
Columbia, SC 29202

M. Britain Travis, Esquire  
Young Clement Rivers, LLP  
Post Office Box 993  
Charleston, SC 29402-0993

Jonathan J. Anderson, Esquire  
Anderson Reynolds & Stephens, LLC  
37 ½ Broad St.  
Charleston, SC 29401

R. Bryan Barnes, Esquire  
Rogers Townsend & Thomas, PC  
220 Executive Center Dr., Winthrop Bldg.  
Columbia, SC 29202-3200

Randell C. Stoney, Jr., Esquire  
Barnwell Whaley Patterson & Helms, LLC  
885 Island Park Drive, PO Drawer H  
Charleston, SC 29492

David S. Cobb, Esquire  
Turner Padget Graham & Laney, P.A.  
P.O. Box 22129  
Charleston, SC 29413

Roy P. Maybank, Esquire  
Maybank Law Firm, LLC  
P.O. Box 12579  
Charleston, SC 29422

J. Blanton O'Neal, IV, Esquire  
Hood Law Firm, LLC  
172 Meeting Street  
Charleston, SC 29401

Charles G. Blackburn, Esquire  
Murphy & Grantland, P.A.  
P.O. Box 6648  
Columbia, SC 29260

Michael B. T. Wilkes, Esquire  
Wilkes Bowers, P.A.  
127 Dunbar Street, Suite 200  
Spartanburg, SC 29306

Christopher M. Adams, Esquire  
Collins & Lacy, P.C.  
1330 Lady Street, Sixth Floor  
Columbia, SC 29211

Robert D. Waltz, Esquire  
Keaveny Law Firm, LLC  
445 Folly Road  
Charleston, SC 29412

William A. Scott, Esquire  
Rogers Townsend & Thomas, PC  
775 St. Andrews Blvd.  
Charleston, SC 29407

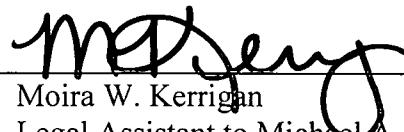
Everett A. Kendall, II, Esquire  
Sweeny, Wingate & Barrow, P.A.  
Post Office Box 12129  
Columbia, SC 29211

Timothy A. Domin, Esquire  
Clawson & Staubes, LLC  
126 Seven Farms Drive, Suite 200  
Charleston, SC 29492

This 29<sup>th</sup> day of February, 2013.

THURMOND KIRCHNER TIMBES & YELVERTON, P.A.

BY: \_\_\_\_\_



Moira W. Kerrigan  
Legal Assistant to Michael A. Timbes