

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

RECEIVED

May 12 2020

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas  
Thomas A. Russo, Circuit Judge

Appellate Case No. 2020-000054

Noel Owens,.....Appellant,

v.

Mountain Air Heating & Cooling, South Market Real Estate, Demetra Caldera, and  
Ronald Gilmer, Defendants,

Of whom South Market Real Estate and Demetra Caldera are the.....Respondents.

MOTION FOR EXTENSION OF TIME TO SERVE AND FILE INITIAL BRIEF  
AND DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON  
APPEAL

Appellant hereby moves pursuant to Rule 263(b), SCACR, for a 30-day extension of the time in which to serve and file the Appellant's initial brief and designation of matter to be included in the record on appeal. The grounds for this motion are that there is good cause to grant the requested extension, as the following shows:

1. The current COVID-19 pandemic and its attendant disruption of the ordinary functioning of business has disrupted Appellant's counsel's schedule and ordinary pace of work, affecting numerous matters, including the completion of the initial brief in this case.
2. This is the first extension Appellant has requested in this appeal. Appellant seeks this extension in order to accommodate the writing

of other appellate briefs to this court in other appeals, including older appeals than this one, in addition to dealing with the COVID-19-related disruption mentioned above.

3. Accordingly, Appellant's counsel believes there is good cause to grant the requested extension.
4. The Supreme Court's order entitled RE: Operation of the Appellate Courts During the Coronavirus Emergency (Sup. Ct. order March 20, 2020) states in section (1)(1) that "the due dates for all Appellate Court filings due on or after the effective date of this order are hereby extended for twenty (20) days." The appellant's initial brief and designation in this case are such filings due on or after the effective date of that order, so the undersigned noted in his correspondence to the court about receipt of the transcript in this appeal that, by his calculation, that language made the Appellant's initial brief and designation deadline June 1, 2020. Court staff responded and stated that "[w]e were told that when the Supreme Court Order came out on March 20, 2020 that the 20 day extension only extended current deadlines to April 13, 2020. All other deadlines after the 13<sup>th</sup> remained the same."
5. The undersigned expressed some concern that court staff's understanding of this provision of the order was not in accord with the language of the order, which contained no such April 13 limitation. The undersigned mentioned that an understanding by staff that the 20-day extension only extended then-operative

deadlines to April 13, 2020, would likely not be shared by litigants and the bar.

6. In any event, this motion is not about when the deadline is now; rather, it is about whether the Appellant's deadline to serve and file her initial brief and designation are to be extended for an additional 30 days from whatever the deadline presently is. If that deadline is presently today – in line with what court staff expressed – the extended deadline if this motion is granted would be June 11, 2020. If the present deadline is actually June 1, 2020, since the brief and designation are appellate court filings due after the effective date of the Supreme Court order, the extended deadline if this motion is granted would be July 1, 2020.
7. The undersigned has served this document on opposing counsel by email to registered AIS email address on the date given below.

WHEREFORE Appellant prays for an order extending the time in which to serve and file the Appellant's initial brief and designation of matter to be included in the record on appeal by 30 days and clarifying when that extended deadline runs.

Respectfully submitted,

/s/ Andrew S. Radeker  
Andrew S. Radeker  
S.C. Bar No. 73743  
Harrison, Radeker & Smith, P.A.  
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Columbia, South Carolina 29250  
(803) 779-2211  
Attorney for Appellant

May 11, 2020

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PROOF OF SERVICE OF MOTION FOR EXTENSION OF TIME TO SERVE  
AND FILE INITIAL BRIEF AND DESIGNATION OF MATTER TO BE  
INCLUDED IN RECORD ON APPEAL

I certify that I served the appellant's motion for extension of time in this case  
by providing a copy of it by email to opposing counsel at the email address(es) shown  
below and on the date shown below:

Margaret A. Collins, Esq., at meg@pslawsc.com;  
Kelley R. Leddy, Esq., at kelley@salleylawfirm.com and kleddy@finkellaw.com; and  
William R. Padget, Esq., at bpadget@finkellaw.com

Respectfully submitted,

/s/ Andrew S. Radeker  
Andrew S. Radeker  
S.C. Bar No. 73743  
Harrison, Radeker & Smith, P.A.  
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Columbia, South Carolina 29250  
(803) 779-2211  
Attorney for Appellant

May 11, 2020

## Drew Radeker

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**From:** Drew Radeker  
**Sent:** Monday, May 11, 2020 2:17 PM  
**To:** meg@pslawsc.com; kelley@salleylawfirm.com; bpadget@finkellaw.com; Kelley Leddy  
**Cc:** Rhonda Schaub; lizzy@pslawsc.com; debbie@salleylawfirm.com; nmanganello@finkellaw.com  
**Subject:** RE: Noel Owens v. Mountain Air Heating & Cooling // 2020-000054  
**Attachments:** Mot extension initial brief & designation.pdf; Proof service mot extension.pdf

All:

I hope this message finds you all doing well. Attached are the motion for extension and proof of service thereof that I am about to file through the Court of Appeals' OneDrive system.

Thank you.

Drew Radeker



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**From:** Drew Radeker  
**Sent:** Thursday, April 23, 2020 1:52 PM  
**To:** Ritchie, Sierra <siritchie@sccourts.org>; meg@pslawsc.com; kelley@salleylawfirm.com; bpadget@finkellaw.com  
**Cc:** Rhonda Schaub <Rhonda@harrisonfirm.com>; lizzy@pslawsc.com; debbie@salleylawfirm.com; nmanganello@finkellaw.com; Transcripts <transcripts@sccourts.org>  
**Subject:** RE: Noel Owens v. Mountain Air Heating & Cooling // 2020-000054

Ms. Ritchie:

Thank you for letting me know that; however, the language in the order is plain: "the due dates for all Appellate Court filings due on or after the effective date of this order are hereby extended for twenty (20) days." Any other interpretation by your office may have stemmed from the author of the order writing something other than what he meant (and then privately telling court personnel what he meant), but we are all governed by the words he wrote in the order, not by what he meant.

For the sake of how the Court of Appeals is implementing this order, you may want to bring this to Ms. Allen's attention. It will probably never turn into a big deal in this case, but I can see it potentially turning into one in others. In other words, it may be best to deal with this before the court begins routinely to receive filings twenty days after it expects to receive them.