

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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

RECEIVED
Jul 07 2020
SC Court of Appeals

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.

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

Appellant hereby submits this reply to Respondent South Market's return to Appellant's motion for a 14-day extension, to July 16, 2020, 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. Appellant replies as follows:

1. Respondent South Market opposes Appellant's request for a second extension of the deadline to serve and file the Appellant's initial brief and designation of matter to be included in the record on appeal.
2. Respondent South Market has the procedural right to oppose this motion. That does not mean, however, that the court should agree

with Respondent South Market and deny this request for a very modest extension.

3. The deadline in question, that of the initial brief and designation of matter, is routinely the subject of extension motions in this court, often more than two such motions. While Appellant does not presuppose the ruling of this court on the instant motion, she does point out that such extension motions are usually granted.
4. Indeed, this court often grants extension motions that are made only after the deadline at issue has run.
5. Respondent South Market appears to complain about the fact that Appellant's previous extension motion sought clarification from the court about the applicability of Chief Justice Beatty's order concerning the operations of the appellate courts during the current COVID-19 pandemic. Respondent South Market's position seems to be that Appellant was actually required to submit the initial brief and designation earlier than the actual deadline to do so under Chief Justice Beatty's order. There is no legal support for Respondent South Market's position.
6. No prejudice will inure to Respondent South Market if this extension motion is granted. Respondent South Market's impatience does not constitute a reason to deny the short extension sought by Appellant.
7. Indeed, Appellant's initial brief and designation have already been served and submitted for filing.

8. What Respondent South Market seeks is to win – but not on the merits. Respondent South Market seeks to prevail in this appeal on the most technical of grounds: by opposing an extension motion.
9. The undersigned cannot be too hard on Respondent South Market’s counsel. Early in his career, the undersigned opposed an extension out of time, seeking to win, as Respondent South Market now does, on a small technicality rather than on the merits. The undersigned should not have done that then, and this court quite correctly granted the extension sought in that case.
10. The standard for obtaining an extension is good cause, which is not a difficult standard to meet. Needing a little time to revise one’s initial brief meets this standard.
11. This court should treat the instant motion as it does most second motions to extend the initial brief deadline, by granting it.
12. 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 14 days, to July 16, 2020, or, in the alternative, an order accepting Appellant’s already served and filed brief and designation as timely.

Respectfully submitted,

/s/ Andrew S. Radeker

Andrew S. Radeker

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July 7, 2020

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PROOF OF SERVICE

I certify that I served the appellant's reply to the respondent's return to
appellant's motion for extension 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
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July 7, 2020