

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

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Nov 03 2020

SC Court of Appeals

Appellate Case No. 2019-001145 / Lower Case No. 2017-CP-40-00517

Jackie Eadon Chalfant,
Individually and as Personal
Representative of the Estate of
Michael Dallas Chalfant,

Appellant,

v.

Carolinas Dermatology
Group, P.A., a South Carolina
Professional Association, and
Mark G. Blaskis, M.D.,
Individually.

Respondent.

**APPELLANT'S UNOPPOSED MOTION TO ALLOW LATE FILING TO SERVE
FINAL BRIEFS, RECORD ON APPEAL, CERTIFICATE OF COUNSEL, AND PROOF
OF SERVICE BY ONE (1) DAY TO DEEM APPELLANT'S FILINGS TIMELY AS A
RESULT OF TECHNOLOGICAL ERROR**

Appellant, Jackie Eadon Chalfant, Individually, and as Personal Representative of the Estate of Michael Dallas Chalfant, by and through the undersigned counsel, and pursuant to Rule 263(b), SCACR, hereby files this Motion to Allow Late Filing to Serve Final Briefs, Record on Appeal, Certificate of Counsel, and Proof of Service by one (1) day to deem Appellants Filings Timely as a Result of Technological Error, and in support thereof, states as follows:

STATEMENT OF FACTS

Pursuant to the Court's Order entered October 26, 2020, the Court ordered that the time for serving and filing the record on appeal and final briefs were extended until November 2, 2020, and

that no further extensions will be granted absent extraordinary circumstances.

The undersigned counsel and his staff have been working diligently preparing the Record on Appeal and their Final Briefs for the past couple weeks. Appellant's were forced to restart the process twice (2) as the Record on Appeal were missing relevant transcript pages / exhibits, which consequently rendered all previous citations to the Record on Appeal to deviate from the current Second Amended Record on Appeal.

On November 2, 2020, around 10:00p.m., Appellant and his staff completed all the required pleadings pursuant to SCACR and prepared same for filing, including but not limited to (1) Appellant's Final Initial Brief; (2) Appellant's Final Reply Brief; (3) Second Amended Record on Appeal; (4) Proof of Service; and (5) Certificate of Counsel (hereinafter collectively "Appellant's Final Brief Pleadings").

The undersigned counsel's Legal Assistant, Ms. Alexa Lewis, was tasked with filing the above-referenced pleadings with the Court of Appeals via email on behalf of the Appellant. Ms. Lewis prepared the email and the relevant attachments, and submitted the email to the Court of Appeals around 10:30p.m. She waited a few minutes due to the size of the email as she discussed same with her Husband, closed her computer and went to bed.

When Ms. Lewis woke up this morning to check her computer, the email she believed to be submitted the night prior officially sent at 6:38a.m.. A true and accurate copy of the electronic filing is attached hereto and incorporated herein as **Exhibit "A"**. The undersigned presumes that due to the size of the email, which included the 524-page Record on Appeal, that a technological error occurred when the computer was closed which froze the submission of the otherwise timely filed pleadings.

Consistent with the facts / chain of events herein, each pleading filed is dated November

2, 2020, and the email submitting the filing to the Court of Appeals begins with “Good Evening”.

ARGUMENT

Pursuant to Rule 267(B) SCACR, “The time prescribed by these Rules for performing any act...may be extended or shortened by the appellate court, or by an judge or justice thereof.”

Good cause exists to allow Appellants Final Brief Pleadings to be deemed filed as of November 2, 2020 and/or to enter an order to allow Appellants Final Brief Pleadings to be deemed filed on November 3, 2020.

The undersigned counsel and his staff have been diligently working on this appeal for over a year, and the “late” filing of Appellants Final Brief Pleadings was a result of technological error, as previously discussed herein, and notwithstanding, was officially submitted a mere seven (7) hours after the deadline passed. To not allow the submission of Appellants Final Brief Pleadings, based on the foregoing, as a result of this technological error would be grossly prejudicial to the Appellant.

This request to allow late filing and/or to extend time is made in good-faith based upon the facts herein, and will not prejudice the Appellees.

CERTIFICATE OF COUNSEL

The undersigned counsel has discussed the Motion herein with opposing counsel, who consents and/or otherwise does not object to the relief requested herein.

CONCLUSION

Based upon the foregoing, the Appellant requests that the Court enter an Order granting Appellant’s Motion to Allow Late Filing of Appellant’s Final Brief Pleadings, and for such other and further relief as the court deems just and proper.

Dated: November 3, 2020

/s/ Michael G. Fink
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Andrew Walker

From: eservice@mikefinklaw.net
Sent: Tuesday, November 3, 2020 6:38 AM
To: ctappfilings@sccourts.org
Cc: Brandon R. Gottschall; Martin Driggers; Mike Fink
Subject: Jackie Eadon Chalfant v. Carolinas Dermatology Group, et al - 2019 - 001145 / Lower Case Number 2017-CP-00517 Final Briefs and Record on Appeal
Attachments: Appellants.Final.Initial.Brief.11.2.20.pdf; Appellants.Final.Reply.Brief.11.2.20.pdf; Second.Amended.Record.on.Appeal.11.2.20.pdf; Certificate.of.Counsel.11.2.20.11.2.pdf; Proof.of.Service.Final.Briefs.11.2.20.pdf

Good Evening,

On behalf of the Appellant in the above-referenced action, please find attached the following:

1. Appellant's Final Initial Brief
2. Appellant's Final Reply Brief
3. Second Amended Record on Appeal
4. Certificate of Counsel
5. Proof of Service of Final Briefs

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Please advise if you require anything further from us or if you have any difficulty with the attachments.

Respectfully,

Alexa Lewis

Assistant to
Michael G. Fink, Esq.
Andrew N. Walker, Esq.

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