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October 29, 2020

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post-Office Box 11629
Columbia, South Carolina 29211

RE: Alexa Naomi Garner Brown v. St. Jude Apostolic Faith Church of God and
Michael Brown
Appellate Case No.: 2020-000504

Dear Mrs. Kitchings:

I have received a copy of Mr. Bolchoz letter to the Court dated October 20, 2020, regarding this matter. As you know, many offices were closed during the COVID-19 pandemic, and as such communications were not received in a timely manner nor responded to in a timely manner. Due to inadvertence and excusable neglect, this office did not respond the Court's inquiry as to the Transcript of Record on Appeal that was requested in a timely manner. Further, the time frame to file a Motion to Reconsider the Remittitur. has expired prior to my notification that it was received. Notwithstanding, the Court has a copy of our request for the Transcript of the hearing, which to date, has still not been received nor has the Court Reporter asked for an extension. I suspect for the same reason as above.

The Appellant filed a Motion to Recall the Remittitur attaching that communication, which appears to be outstanding as of the writing of this communication.

The South Carolina Supreme Court filed it's Amended Order on May 29, 2020, with regard to the Operation of the Appellate Courts During the Coronavirus Emergency. Appellate Case No. 2020-000447. Paragraph 1(3) is entitled Forgiveness of Procedural Defaults. We are requesting that the Court take this into consideration in this case.

Without arguing the Appeal before this Court, the basis stems from a Motion to Dismiss filed in the Hampton County Court of Common Pleas and granted in favor of these Respondents for Appellants failure to file the Record on Appeal. The Record on Appeal was indeed in the Circuit Court Record prior to the time of the dismissal. And further, any defect was cured because the Respondent filed their brief in response to the Appellant's brief that contained said record.

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Page 2

The Appellant's will be severely prejudiced if the Appeal is dismissed for a procedural defect. Therefore, I respectfully request again, that the Remittitur be recalled and that the Court order that the transcript of record from the Circuit Court be provided to the Appellant.

With kindest regards, I am

Very truly yours,

MOSS, KUHN & FLEMING, P.A.


James H. Moss

JHM:kmc

C: Sean Michael Bolchoz, Esquire

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