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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL from Court of Common Pleas of CHARLESTON COUNTY

Capers G. Barr, III, Special Referee

Appellate Case No. 2021-000185

Case No. 2019-CP-10-03042

Judith A. Brown, as Personal Representative for the Estate of Mildred C. Knight, and Norman R. "Bobby" Knight III, Appellants
v.

Chloe Knight Tonney, Respondent.

MOTION TO REQUEST PERMISSION TO FILE APPELLANTS' NOTICE OF APPEAL ON LOWER COURT CLERK OF COURT WITH PROOF OF SERVICE OUTSIDE OF FILING DEADLINE

NOW come Appellants to request permission to file Appellants' Notice of Appeal with exhibits and proof of service at the Clerk of the Lower Court outside of the filing deadlines set by Rule 203(d)(B) of the SCACR. Further, Appellants request permission to file the same exhibits in the Appellate Court. The exhibits are copies of the orders to be challenged on appeal.

Counsel for Appellants, during preparation of the appeal documents was distracted (has been displaced from residence due to a fire on 1/30/2021) and mistook certain similar materials for the present filings and inadvertently omitted the material subject to this motion. All filings were originally due on March 1, 2021 because service of the Notice of Appeal and other material occurred on February 17, 2021.

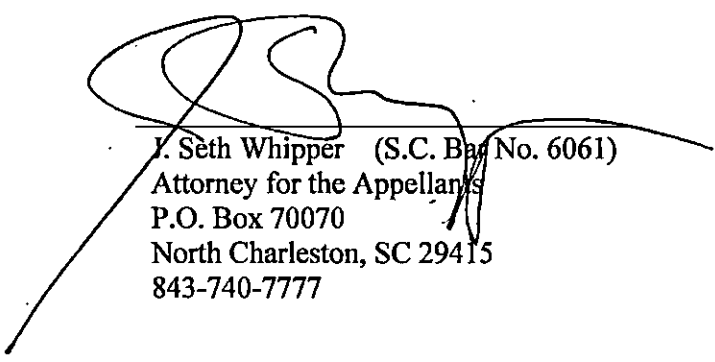
In this Appeal, Appellants timely served their Notice of Appeal on "all respondents within thirty (30) days after receipt of written notice of entry of the order. . ." Rule 203(b)(1) SCACR. The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rules 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof. . . Rule 263(b), SCACR. Appellants' inadvertence has not disadvantaged Respondent or caused any confusion for the Appellate Court. The necessary official notice to the Lower Court can be made without affecting the merits of the issues raised by the appeal.

Continued on next page

Appellants contend that the interests of justice will be served by granting this motion.
Dixon v. Besco Engineering, Inc. 320 S.C. 174, 463, S.E.2d 636, 638 (Ct. App.1995).

This motion is based on South Carolina Rules of Court and Applicable Case Law.

March 4, 2021



J. Seth Whipper (S.C. Bar No. 6061)
Attorney for the Appellants
P.O. Box 70070
North Charleston, SC 29415
843-740-7777

Other Counsel of Record:

Charles S. Altman, Attorney for Respondent, Chloe Knight Tonney
575 King Street, Suite A
Charleston, SC 29403
Phone: 843-853-9907

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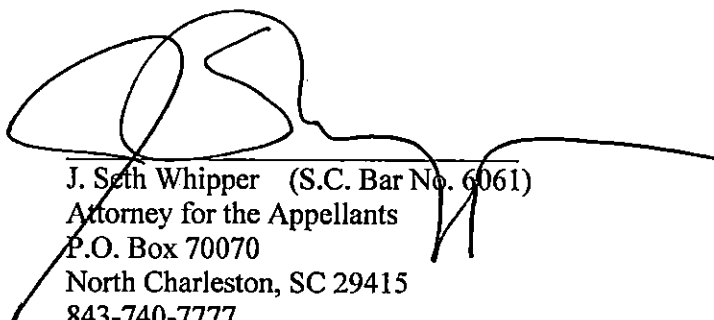
v.

Chloe Knight Tonney, Respondent.

PROOF OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing MOTION TO REQUEST PERMISSION TO FILE APPELLANTS' NOTICE OF APPEAL ON LOWER COURT CLERK OF COURT WITH PROOF OF SERVICE OUTSIDE OF FILING DEADLINE has been served upon opposing counsel and the clerk of court, The Honorable Jenny Abbott Kitchings on the 5th day of March, 2021 via fax and deposited in the U.S. Postal Service on March 5, 2021.

MARCH 5, 2021



J. Seth Whipper (S.C. Bar No. 6061)
Attorney for the Appellants
P.O. Box 70070
North Charleston, SC 29415
843-740-7777

Other Counsel of Record:

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575 King Street, Suite A
Charleston, SC 29403
Phone: 843-853-9907

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WHIPPER LAW FIRM

Attorneys and Counselors at Law

4592 Durant Avenue
North Charleston, SC 29405
(843) 740-7777
FAX (843) 740-9108

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SC Court of Appeals

CHERYL WHIPPER HAMILTON
J. SETH WHIPPER

MAILING ADDRESS
POST OFFICE BOX 70070
NORTH CHARLESTON, SC 29415

March 5, 2021

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

Faxed and Mailed USPS

**Re: Judith A. Brown, as Personal Representative for the Estate of Mildred C. Knight, and Norman R. "Bobby" Knight III, Appellants
v. Chloe Knight Tonney, Respondent. Appellate Case No. 2021-000185**

**MOTION TO REQUEST PERMISSION TO FILE APPELLANTS' NOTICE OF APPEAL ON LOWER COURT CLERK OF COURT WITH PROOF SERVICE OUTSIDE OF FILING DEADLINE – For Filing
PROOF OF SERVICE - For Filing**

Dear Mrs. Kitchings:

Please find enclosed for filing, the Appellants' Motion to Request Permission to File Out of Time. I am enclosing the original and (7) copies of the same for conforming. Check No. 10785, in the amount \$50.00 for the requisite filing fee is also enclosed. I am providing a self-addressed, stamped envelope for your use in returning the conformed copy.

Sincerely,

WHIPPER LAW FIRM

J. Seth Whipper, (SC Bar No. 6061)

JSW:cfw

Enclosures

cc: Charles S. Altman
Norman R. "Bobby" Knight, III (w/o encl.)

POSTNET barcode

CHARLESTON SC 294
FRI 05 MAR 2021

J. Seth Whipper, Esq.
Whipper Law Firm
P.O. Box 70070
North Charleston, SC 29415



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South Carolina Court of Appeals
Honorable Jenny A. Kitchings, Clerk
Post Office Box 11629
Columbia, SC 29211