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May 03 2021
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Lawton McIntosh, Judge

Case No. 2015-CP-04-00667
Appellate Case No. 2020-000070

Ex Parte: Donald L. Smith,
In Re: Greg Battersby,

Appellant,
Plaintiff

v.

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A., All State Insurance Company,
And Allstate Northbrook Indemnity Company,

Defendants,

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A.,

Respondents.

**MOTION FOR EXTENSION OF TIME TO FILE
APPELLANT'S RETURN TO RESPONDENTS' MOTION TO DISMISS**

On March 29, 2021, Appellant filed his Initial Brief and Designation of Matter to be Included on the Record on Appeal in the above-captioned matter. On April 23, 2019, Respondents, through their counsel of record, and moved to dismiss the appeal based on an untimely filing of Notice of Appeal.

Based on Rule 240 (e) of the SCACR, Appellant has ten (10) days from the date of service thereof to file his Return to the Motion to Dismiss, or until May 3, 2021.

Counsel for Appellant requests an additional ten (10) day extension of time to file his Return, making the Return due on May 13, 2021. This is the first request for extension of time to file the opening brief.

Counsel for Appellant relies on the following reasons, in addition to the routine matters that counsel must attend to in daily practice to explain the need for the requested extension:

As Appellant's counsel received Respondents' Motion, he encountered unexpected difficulty due to his heavy caseload for the last week of April, which included the preparation of briefs for three district court cases and two other appellate matters, as well as a Petition for Certiorari to the Supreme Court.

Also, due to the complexity of the facts and issues involved in this present case, Appellant will need significant time to effectively respond to Respondents' arguments. Counsel for Appellant seeks this extension of time to be able to prepare a cogent and succinct response to aid this Court in its analysis of the issues presented. This request is not sought for delay but so that justice may be done. Appellant prays the lack of resulting prejudice to opposing counsel will allow the Court to grant this Motion.

Accordingly, Appellant hereby respectfully requests this Court to allow him to file his Return to Respondents' Motion to Dismiss on or before May 13, 2021.

Respectfully submitted by,

S/Donald L. Smith
Donald L. Smith, (Bar No.: 6699)
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Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com
Attorney for Appellant

Anderson, South Carolina
May 3, 2021

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**FORM 7
PROOF OF SERVICE**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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Defendants,

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A.,

Respondents.

PROOF OF SERVICE

Pursuant to Supreme Court of South Carolina's Amended Order 2020-05-29-02, I certify that I have served a copy of the Motion for Extension of Time to File Appellant's Return to Respondents' Motion to Dismiss and Certificate of Counsel, and Proof of Service of same, upon The Honorable Jenny Abbott Kitchings, Clerk of South Carolina Court of Appeals, through the AIS, and the Respondents, by and through their respective counsel of record, via electronic mail in the addresses as follows:

Ms. Jenny Abbott-Kitchings

ctappfilings@sccourts.org

Attorney for Respondents

Mr. Steven M. Krause, Esquire

steve@krauselaw.org

Mr. Daniel Draisen, Esquire

daniel@injuredSC.com

The above-mentioned documents have been served on May 2, 2021.

s/Donald L. Smith
Donald L. Smith (Bar No. : 6699)
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Anderson, South Carolina
May 3, 2021.

**FORM 8
LETTER TO THE APPEALS COURT CLERK
ADDRESSING DEFICIENCY LETTER**

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May 03 2021

SC Court of Appeals

May 3, 2021

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

**RE: Ex Parte: Donald L. Smith (In Re: Battersby v. Kirkman)
Appellate Case No. 2020-000070**

Dear Ms. Kitchings:

Please find attach the following documents for filing:

- (1) Motion for Extension of Time to File Appellant's Return to Respondents' Motion to Dismiss; and,
- (2) Proof of Service.

Sincerely,

s/Donald L. Smith

Donald L. Smith, (Bar#6699)

Attorney for Appellant

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Anderson SC 29621

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Facsimile: (864) 642-9285

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cc: Mr. Steven M. Krause, Esquire
Mr. Daniel L. Draisen, Esquire