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Dec 09 2021

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Horry County
Court of Common Pleas

William H. Seals Jr., Circuit Court Judge

Case No. 2015-CP-26-05573
Appellate Case No. 2018-002009

K.A. Diehl and Associates, Inc.,

Respondent,

v.

James Perkins, Colleen Franke a/k/a Colleen Franke Perkins,
Mark Dos Santos, William Moore, Steven Dame
and Errol Dos Santos,

Defendants,

Of whom Mark Dos Santos is the

Appellant.

**APPELLANT'S MOTION FOR SECOND EXTENSION OF TIME
TO FILE/SERVE RETURN TO RESPONDENT'S MOTION
TO DISMISS THE APPEAL AND COUNTERCLAIMS**

CLEMENT RIVERS, LLP
D. Jay Davis Jr. (SC Bar No. 12084)
Russell G. Hines (SC Bar No. 72100)
25 Calhoun Street, Suite 400
Charleston, South Carolina 29401
P.O. Box 993 (29402)
(843) 577-4000

Attorneys for Appellant

NOW COMES Appellant, Mark dos Santos, by and through his undersigned counsel, pursuant to Rule 240(e), SCACR (“The court may in its discretion enlarge or limit the time for filing the return.”), and Rule 263(b), SCACR (providing that the Court may extend the time prescribed by the South Carolina Appellate Court Rules for performing any act except the time for serving the notice of appeal under Rules 203 and 243, SCACR), and, on the grounds set forth below, hereby moves this Honorable Court for an additional extension of 10 days’ time, i.e., from today, Thursday, December 9, 2021, to Monday, December 20, 2021, to file/serve a return in opposition to Respondent’s Motion to Dismiss the Appeal and Counterclaims (the “Motion to Dismiss”).

Respondent filed/served the Motion to Dismiss on November 15, 2021, making Monday, November 29, 2021, the original deadline for Appellant to file/serve a return thereto. *See* Rule 240(e) (“Any party opposing a motion or petition shall have ten (10) days from the date of service thereof to file . . . his return with the clerk and serve on all parties a copy of the return[.]”); Rule 263(a) (“In computing any period of time prescribed or allowed by these Rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or

a state or federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday.”).

By order filed December 6, 2021, the Court granted Appellant’s motion for an extension of his return deadline to today, December 9, 2021.

Because of work-related and other time commitments, the undersigned requests that the Court extend the time for Appellant to file/serve his return to the Motion to Dismiss by 10 additional days, i.e., from today, Thursday, December 9, 2021, to Monday, December 20, 2021. Most respectfully, the undersigned submits that the grant of such relief is consistent with the interests of justice and will not result in any undue prejudice or delay.

Wherefore, Appellant moves this Honorable Court to grant him an additional extension of 10 days’ time to file/serve his return to the Motion to Dismiss. If the requested extension is granted, the new deadline for Appellant’s return will be Monday, December 20, 2021, according to the undersigned’s calculations. *See* Rule 263(a) (regarding computation of time). Additionally, Appellant asks that the Court hold his return deadline in abeyance until it rules upon this motion.

<SIGNED ON THE FOLLOWING PAGE>

Respectfully submitted,
CLEMENT RIVERS, LLP

By: s/Russell G. Hines
D. Jay Davis Jr. (SC Bar No. 12084)
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(843) 577-4000
Attorneys for Appellant

Charleston, South Carolina

December 9, 2021

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v.

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Mark Dos Santos, William Moore, Steven Dame
and Errol Dos Santos,

Defendants,

Of whom Mark Dos Santos is the

Appellant.

PROOF OF SERVICE

CLEMENT RIVERS, LLP
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Russell G. Hines (SC Bar No. 72100)
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(843) 577-4000

Attorneys for Appellant

I, Russell G. Hines, of Clement Rivers, LLP, attorney for Appellant, hereby certify that **APPELLANT'S MOTION FOR SECOND EXTENSION OF TIME TO FILE/SERVE RETURN TO RESPONDENT'S MOTION TO DISMISS THE APPEAL AND COUNTERCLAIMS** was served on Respondent on December 9, 2021, via email (see attached) to Respondent's counsel of record:

Henrietta U. Golding, Esquire
hgolding@burr.com
Alicia E. Thompson, Esquire
athompson@burr.com
Burr & Forman, LLP
P.O. Box 336
Myrtle Beach, SC 29578
Attorneys for Respondent
K.A. Diehl and Associates, Inc.

Respectfully submitted,
CLEMENT RIVERS, LLP

By: s/Russell G. Hines
Russell G. Hines (SC Bar No. 72100)
Attorneys for Appellant

Charleston, South Carolina

December 9, 2021

Bell, Pollyana (Polly)

From: Bell, Pollyana (Polly)
Sent: Thursday, December 9, 2021 1:50 PM
To: Voegel, Taylor; athompson@burr.com; Evans, Sheila; hgolding@burr.com
Cc: Justman, Aimee; Hines, Russell
Subject: 2018-002009 -K.A. Diehl v. Perkins (Dos Santos)
Attachments: K.A. Diehl v. Perkins (2018-002009) -- 2d Mot. for Ext. re Return to Mot. to Dismiss Appeal.pdf

Enclosed please find Appellant's Motion for Second Extension of Time to File/Serve Return to Respondent's Motion to Dismiss the Appeal and Counterclaims which will be filed today.

Thank you,

Pollyana Bell
Project Assistant
Commercial Litigation Practice Group
Phone:(843)720-5488 | Fax:(843)579-1369



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CLEMENT RIVERS, LLP
ATTORNEYS AT LAW

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December 9, 2021

VIA US MAIL & E-MAIL

Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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SC Court of Appeals

Re: K.A. Diehl and Associates, Inc. v. James Perkins, Colleen Franke, a/k/a Colleen Franke Perkins, Mark Dos Santos, Nancy Moore, William Moore, Steven Dame, and Errol Dos Santos, Of whom Mark Dos Santos is the Appellant
Appellate Case No. 2018-002009
Case No.: 2015-CP-26-05573
YCR File: 14168-20180194

Dear Ms. Kitchings:

Enclosed for filing in the above-referenced matter please find Appellant's Motion for Second Extension of Time to File/Serve Return to Respondent's Motion to Dismiss the Appeal and Counterclaims and Proof of Service regarding the same.

A check for the filing fee will be placed in the mail. With best wishes and kindest regards, I am

Sincerely,

CLEMENT RIVERS, LLP

Pollyana Bell
Project Assistant

/pbb
Enclosure(s)
cc(via e-mail only): Henrietta U. Golding, Esquire
Alicia E. Thompson, Esquire