

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
In the Court of Common Pleas

S. Jackson Kimball, Special Circuit Court Judge

Case No.: 2007-CP-46-00119

RECEIVED

APR 2 2013

33 Court of Appeals

J.W. NEAL CONSTRUCTION, LLC, Respondent,

v.

CORNELIA THOMAS, Appellant.

MOTION FOR EXTENSION OF TIME

Pursuant to Rules 240 and 263(b), S.C.A.C.R., the Respondent, by its counsel herein, moves this Court for an order granting it an extension of time in which to file its Brief and Designation of Matter to be included in the Record on Appeal, on the grounds stated below:

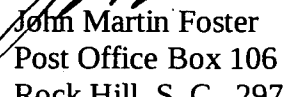
1. On January 4, 2013, counsel for Respondent was incapacitated and underwent a heart bypass operation. After the operation and during recovery, he has been in a cardiac rehabilitation program: that program is slated to end in the coming week. He thus expects to be in his office on a full or part time basis beginning at that time.
2. After his operation, counsel (through his secretary) sent an e-mail to this Court and Clerk, among others, on January 8, 2013.

3. By this Motion, and based upon the facts recited above, counsel for Respondent respectfully requests a reasonable extension of time to submit the Respondent's Brief and Designation of Matter to be included in the Record on Appeal.

The basis of this Motion is the within-cited Rules, the records of this appeal, and any attached records, affidavits or stipulations of the undersigned, which items are hereby incorporated in this Motion.

WHEREFORE, the Respondent herein moves this Court for an extension of time in which to file its Initial Brief and Designation of Matter to be included in the Record on Appeal for an additional period, as set forth above, pursuant to Rules 240 and 263(b), S.C.A.C.R.

April 17, 2013



John Martin Foster
Post Office Box 106
Rock Hill, S. C. 29731-6106
(803) 324-8100
Attorney for Respondent

Subject: Martin Foster, Dr's Letter
From: John Martin Foster <jmfoster@comporium.net>
Date: 01/08/2013 01:25 PM
Attachments: Dr's Letter.pdf (15.2 KB)
To: Chief Justice Jean Toal <jtoal@sccourts.org>, Daniel Shearouse <dshearouse@sccourts.org>, "Honorable Margaret B. Seymour" <margaret_seymour@scd.uscourts.gov>, Honorable John Few <jfew@sccourts.org>, "Hayes, The Honorable John C." <jhayesj@sccourts.org>, Lynn Strait <lynn.strait@yorkcountygov.com>, "The Honorable S. Jackson Kimball, III" <jack.kimball@yorkcountygov.com>, Maryann Motz <Maryann.Motz@yorkcountygov.com>, "The Honorable Carolyn W. Rogers" <carolyn.rogers@yorkcountygov.com>, "Berinsky, Clifford & Diane" <clifford.berinsky@yorkcountygov.com>, Patrick Martin <patrick@lazenbylawfirm.com>, "Leonard R. Jordan Jr." <LJordan@BQSLaw.com>, "Thomas L. Ogburn, III" <toburn@poynerspruill.com>, Keith Martens <KMartens@hmandb.com>, "Earl R. Gatlin" <ergat@comporium.net>, Jenny Kitchings <jkitchings@sccourts.org>, David Blackwell <david.blackwell@btmlaw.com>, Erin Urquhart <ErinU@mcdowlaw.com>, "Michael K. Hatch" <michael.hatch@mortongettys.com>, "Milton E. Hamilton" <mehsr@truvista.net>, Bob Marshall <bob@bobmarshall.com>

Your Honors, Colleagues:

Attached is the Doctor's letter confirming the information in the previous email.

Rhonda Driskell
For Martin Foster

-- Your Honors, Colleagues:

After more than a week with chest pains, my doctor on Friday, January 5, had me driven by ambulance to Piedmont Medical Center. After catheritization, the surgeon concluded I had a ninety percent occlusion and ordered an immediate surgery. This was a triple by-pass. I am told I will be out for an undetermined period, probably one to two months. If I can get the doctor's letter to confirm these facts it will accompany this email.

This email is to inform the courts and opposing counsel that I must ask for a continuance of hearings in that period and for extensions of appellate deadlines in the same period.

I apologize for doing this by email but I felt I had a duty to inform all as soon as possible. A revised version of this email naming all cases should follow.

At the courts requests, I will be happy to send a formal motion to that effect together with any required fees. I thank you all for the consideration in this situation.

Respectfully Yours,

John Martin Foster
ES

John Martin Foster, Attorney
as dictated to Rhonda Driskell

JOHN MARTIN FOSTER jmfoster@comporium.net

THE GUARDIAN BUILDING

223 E MAIN ST SUITE 520 ROCK HILL SC 29730

P O Box 106 ROCK HILL SC 29731-6106



**CATAWBA-P. J. MONT
CARDIOTHORACIC &
VASCULAR SURGERY**

Affiliated with **PMC Physician Network**

David Savage, MD | Keith Menes, MD

January 8, 2012

To Whom It May Concern:

John Foster is a patient of Dr. Savage's, and underwent emergency heart surgery on Friday January 4th, 2013. The expected recovery time for this procedure is approximately 12 weeks. We will be seeing Mr. Foster in a few weeks in the office and will know better at that time when he will be able to resume full activities.

Thank you,

David H. Savage, M.D.

200 South Herlong Avenue, Suite E-1 | Rock Hill, SC 29732
Phone: 803-324-1950 | Fax: 803-324-1933
www.catawbacardiothoracic.com

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
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S. Jackson Kimball, Special Circuit Court Judge

Case No.: 2007-CP-46-00119

J.W. NEAL CONSTRUCTION, LLC, Respondent,

v.

CORNELIA THOMAS, Appellant.

CERTIFICATE OF SERVICE

I certify that on April 17, 2013, I served this Motion for Extension of Time, and this Certificate of Service on the following counsel of record, parties or persons:

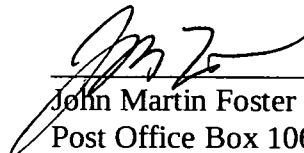
Herbert W. Hamilton
Hamilton, Martens & Ballou, LLC
Post Office Box 10940
Rock Hill, South Carolina 29731
Attorneys for Appellant

by depositing the same with the United States mail, with sufficient first class postage attached, properly addressed to the clerk of the Court, and with a copy also directed to the respective last known address(es) of those attorney(s) and/or persons set out below; or

by hand delivering copies of the same to the following persons, or by leaving the same at that person's office with that person's clerk or some other person in charge thereof, or by leaving it in a conspicuous place therein; of if the office was closed or the person to be served has no

office, by leaving a copy at that person's dwelling place or usual place of abode with some person of suitable age and discretion then residing therein, all pursuant to Rule 233(b), S.C.A.C.R.

April 17, 2013



John Martin Foster
Post Office Box 106
Rock Hill, S. C. 29731-6106
(803) 324-8100
Attorney for Respondent

JOHN MARTIN FOSTER
Attorney at law

The Guardian Building	PO Box 106	803 324 8100
223 East Main Street Suite 520	Rock Hill SC	803 324 8109 Fax
Rock Hill South Carolina 29730	29731-6106	jmfoster@comporium.net

April 17, 2013

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

Re: J.W. Neal Construction, LLC, Respondent,
v. Cornelia Thomas, Appellant.

Case No. 2010-CP-46-02508

Dear Ms. Kitchings:

In accordance with Rules 240 and 263(a), S.C.A.C.R., enclosed herewith please find the original and seven (7) copies of the Respondent's Motion for Extension of Time, together with Certificate of Service for the same in the above referenced case. I also enclose our check for the Motion fee of \$25.00.

By copy of this letter, I am serving the attorney for the Appellant with a copy of the said Motion, as evidenced by the Certificate of Service.

Please return the extra conformed copy to my office in the enclosed self-addressed, stamped envelope. As always, thank you, and your staff, for your assistance in these matters.

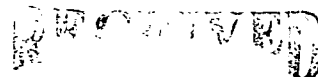
Sincerely yours,


John Martin Foster

jmf/
enclosures

cc: Client File

Herbert W. Hamilton
Hamilton, Martens & Ballou, LLC
Post Office Box 10940
Rock Hill, South Carolina 29731
Attorneys for Appellant



APR 22 2013

SC Court of Appeals