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**May 02 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM LEXINGTON COUNTY  
WALTON J. MCLEOD, CIRCUIT COURT JUDGE  
Case No. 2022-CP-32-01419

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Emily P. Smith and Emily P. Smith and Associates, LLC, ..... Appellants,

v.

Robert T. Smith; Southern Collection, LLC;  
Southern Collection Brokerage, LLC;  
Terrance Smith and Associates, LLC; Robert B. Smith,  
And Sherry C. Smith, ..... Respondents.

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**MOTION TO EXPEDITE APPEAL**

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Appellants Emily P. Smith and Emily P. Smith and Associates, LLC (collectively referred to as “Emily”) hereby move this Honorable Court for an order expediting the consideration of the merits in this matter. In support of her motion, Emily would show the following:

1. On or about August 18, 2021, Emily filed an action for divorce from Respondent Robert T. Smith (“Terence”) in the Lexington County Family Court, Case No.: 2021-DR-32-1578 (“domestic action”). This matter is still pending.
2. Emily and Terence were the joint owners and sole members of Southern Collection, LLC. The Family Court action requested equitable distribution generally, but did not name the parties’ LLC and did not request a division or allocation of the LLC under the provision of the S.C. Code § 33-44-801.

3. The Family Court therefore did not have jurisdiction over the LLC. The temporary order specifically declined to deal with any property issues and did not acknowledge the existence of the LLC. This has led to years of bitter litigation in the Family Court.
4. On or about April 27, 2022, Emily filed a complaint in the Circuit Court asserting her rights as a member of a limited liability company, seeking a judicial dissolution and winding up of Respondent corporation Southern Collection LLC, emergency temporary appointment of receiver, and imposition of constructive trust.
5. Contemporaneously with the filing of the complaint, on April 27, 2022, Emily filed a statement of dissociation with the South Carolina Secretary of State pursuant to S.C. Code Ann § 33-44-704 to initiate the dissolution of Southern Collection, LLC.
6. On or about June 17, 2022, the trial court issued an order dismissing Emily's Circuit Court action and finding that the corporate issues raised in Emily's complaint were within the jurisdiction of the Family Court.
7. Emily appealed from the trial court's order on July 29, 2022, asserting that the relief sought in the circuit court action is within the exclusive jurisdiction of the Circuit Court.
8. A date certain for a final hearing in the domestic action has been set for July 25, 2023, during which the Family Court is set to address the corporate issues that were properly before the Circuit Court. Emily is informed and believes that the issue regarding jurisdiction over the LLC must be resolved expeditiously so that the Family Court can address the matters over which it has jurisdiction, and the Circuit Court can deal with the LLC issues. No statute vests jurisdiction in the Family Court to divide corporate entities or distribute corporate interests.

9. Emily requests that the appeal in this matter be expedited so that the Court can consider the merits and issue a decision before the final hearing in the domestic action.

For the reasons set forth above, Emily respectfully requests that this Court grant their request to expedite this appeal.

Respectfully submitted,

s/ Haley Hubbard  
Desa Ballard (S.C. Bar No. 498)  
Harvey M. Watson III (S.C. Bar No. 74053)  
Haley Hubbard (S.C. Bar No. 103195)

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ATTORNEYS FOR APPELLANTS

May 2, 2023

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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM LEXINGTON COUNTY  
WALTON J. MCLEOD, CIRCUIT COURT JUDGE

Appellate Case No. 2022-001060

Emily P. Smith and Emily P. Smith and Associates, LLC, ..... Appellants,

v.

Robert T. Smith; Southern Collection, LLC;  
Southern Collection Brokerage, LLC;  
Terrance Smith and Associates, LLC; Robert B. Smith,  
And Sherry C. Smith, ..... Respondents.

**PROOF OF SERVICE**

I, Beth Cogan, an employee with Ballard & Watson, do hereby certify that on May 2, 2023, I served a copy of the **Motion to Expedite**, in the above-captioned case on the following individuals by electronic mail using their email address listed in the Attorney Information System, addressed as follows:

**Mark B. Goddard, Esquire**  
**John B. Kelchner, Esquire**  
**Turner Padget Graham & Laney, P.A.**  
**mgoddard@turnerpadget.com**  
**jkelchner@turnerpadget.com**

  
Beth Cogan, Paralegal

May 2, 2023

## Beth Cogan

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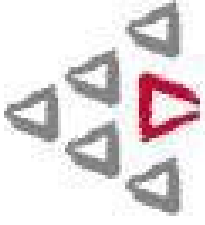
**From:** Beth Cogan  
**Sent:** Tuesday, May 2, 2023 9:39 AM  
**To:** Mark B. Goddard; Kelchner, John B; Gatlin, Cindy A  
**Cc:** Desa Ballard; Haley Hubbard  
**Subject:** (Emily P. Smith, et al. v. Robert T. Smith, et al. 2022-001060) Ltr to COA encl Motion to Expedite Appeal  
**Attachments:** 2023 05 02 Ltr to COA encl Motion to Expedite.pdf; 2023 05 02 Motion to Expedite Appeal.pdf; 2023 05 02 POS Motion to Expedite.pdf

Good morning,

Please see the attached Motion to Expedite Appeal that is being filed today with the Court of Appeals for the above-referenced matter.

Kindest Regards,  
-Beth

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Ballard & Watson, Attorneys at Law  
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May 2, 2023

*Via Email* ([ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org))  
The Honorable Jenny Abbot Kitchings  
Court of Appeals Clerk of Court  
Post Office Box 11629  
Columbia, South Carolina 29211

**RECEIVED**  
**May 02 2023**  
**SC Court of Appeals**

Re: *Emily P. Smith, et. al. v. Robert T. Smith, et al.*  
Appellate Case No.: 2022-001060

Dear Ms. Kitchings:

Please find enclosed for filing a **Motion to Expedite Appeal** in the above-referenced matter. By copy of this letter and as evidenced by the Proof of Service, these filing has been served upon counsel for the Respondent/Appellant.

Pursuant to paragraph (c) of the Supreme Court's administrative order dated May 6, 2022 ("Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules") a check for the filing fee is being forwarded separately via US mail. If you have any questions, please do not hesitate to contact my office.

With warm personal regards, I am,

Sincerely yours,

*Haley A. Hubbard*

Haley Hubbard  
[haley@desaballard.com](mailto:haley@desaballard.com)

Enclosures

cc: *Via Electronic Mail*  
Mark Goddard, Esquire  
John Kelchner, Esquire  
Emily Smith