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**May 11 2023**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM LEXINGTON COUNTY

THE HONORABLE WALTON J. MCLEOD, CIRCUIT COURT JUDGE

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Appellate Case No. 2022-001060

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Emily P. Smith , ..... Appellant,

v.

Robert T. Smith, Southern Collection, LLC, Southern Collection  
Brokerage, LLC, Terence Smith and Associates, LLC, Robert B. Smith  
and Sherry C. Smith, ..... Respondents.

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**RETURN TO MOTION TO EXPEDITE APPEAL**

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Pursuant to Rule 240(e), SCARC, Respondents Robert T. Smith, Southern  
Collection, LLC, Southern Collection Brokerage, LLC, Terence Smith and  
Associates, LLC, Robert B. Smith, and Sherry C. Smith, respectfully submit this  
Return to Appellant’s Motion to Expedite.

Appellant’s Motion makes various arguments as to the potential jurisdiction  
of the Circuit Court versus the Family Court to decide the issues relating to the  
parties’ membership interests in Southern Collections, LLC. These jurisdictional  
issues are at the heart of this appeal and have been fully briefed in Respondents’

Brief<sup>1</sup>. In the interest of brevity, Respondents do not restate all of their arguments and authorities cited in their Respondents' Brief, and instead, refer the Court to their Brief. Simply put, the Circuit Court correctly ruled that it lacked subject matter jurisdiction to consider Plaintiff's Complaint because all causes of action were within the exclusive jurisdiction of the Family Court. Further, the Circuit Court correctly ruled that even if the Circuit Court had jurisdiction, Plaintiff's Complaint fails to state a cause of action and should be dismissed pursuant to Rule 12(b)(6).

At this point, Appellant's Motion appears to be premature as Appellant has not yet served the Record on Appeal pursuant to Rule 210, SCARC, and therefore, all parties' final briefs are not yet due. In response to this Motion, pursuant to Rule 211, SCAR, Respondents do not waive the twenty (20) day deadline to file their final Respondents' Brief upon receipt of the Record on Appeal, and Respondents oppose the Motion to the extent it seeks to shorten that time period.

However, without waiving that one objection, Respondents do not challenge the request for this Court's expedited review of the appeal once the final briefs have been filed and served in the normal course. Respondents agree that the final merit hearing in the Family Court divorce action is currently scheduled to begin on July 25, 2023, and the issues on appeal could potentially impact that hearing. For that reason, an expedited consideration of the appeal could be beneficial. Yet, even if the

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<sup>1</sup> Respondents' Initial Brief was filed on May 2, 2023.

Court declines to grant the Appellant that unusual remedy, the Court could conceivably accomplish the same result by finding that the automatic appellate stay applies to the underlying Family Court case pursuant to Rule 241, SCACR. Respondents would not challenge or dispute any such finding as to the automatic stay.

Respectfully submitted,

s/ Mark B. Goddard

Mark B. Goddard (S.C. Bar No. 73965)

R. Hawthorne Barret (S.C. Bar No. 16973)

Lindsey M. Behnke (S.C. Bar No. 105719)

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Attorneys for Respondents

May 10, 2023

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THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

APPEAL PENDING AT THE COURT OF APPEALS

FROM LEXINGTON COUNTY  
THE HONORABLE WALTON J. MCLEOD, CIRCUIT COURT JUDGE

Case No. 2022-001060

Emily P. Smith, ..... Appellant,

v.

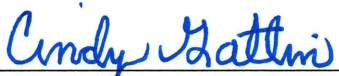
Robert T. Smith, Southern Collection, LLC, Southern Collection  
Brokerage, LLC, Terrence Smith and Associates, LLC, Robert B. Smith  
and Sherry C. Smith, ..... Respondents.

**PROOF OF SERVICE**

I, Cindy Gatlin, an employee of Turner Padgett Graham & Laney, P.A., do hereby certify that on May 10, 2023, I served a copy of the **Respondents' Return to Motion to Expedite Appeal**, in the above-referenced case on the following individuals by electronic mail using their email address listed in the Attorney Information System, addressed as follows:

**Desa Ballard, Esquire**  
**Harvey M. Watson, III, Esquire**  
**Haley Hubbard, Esquire**  
**BALLARD & WATSON**  
**desab@desaballard.com**  
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May 10, 2023  
Columbia, South Carolina

  
Cindy Gatlin

**Mark B. Goddard**

REPLY TO  
E-Mail: MGoddard@TurnerPadget.com  
Writer's Direct Dial: 803-227-4334  
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May 10, 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 11 2023**  
**SC Court of Appeals**

Re: *Emily P. Smith. v. Robert T. Smith, et al.*  
Appellate Case No.: 2022-001060  
Our File No.: 18545.00101

Dear Ms. Kitchings:

Please find enclosed for filing the **Respondents' Return to Motion to Expedite Appeal and Proof of Service**, in connection with the above-referenced matter. By copy of this letter and as evidenced by the Proof of Service, I am serving the same to the Appellants. Thank you for your assistance in this matter. Should you have any questions, please do not hesitate to contact me.

With kind regards, I am

Sincerely,

TURNER PADGET GRAHAM & LANEY P.A.

*s/ Mark Goddard*

Mark B. Goddard

MBG:cag

Enclosures as stated

cc: Desa Ballard, Esquire  
Harvey M. Watson, III, Esquire  
Haley Hubbard, Esquire  
Terence Smith