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**Aug 14 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Patrick C. Fant, III, Circuit Court Judge

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Appellate Case No. 2025-001344  
Case No. 2023-CP-23-01912

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Patricia Diehl,

Appellant,

v.

Home Depot Store SW #1127;  
Home Depot Management Company,  
LLC; HD Development of Maryland,  
Inc; Charles Hilliard, Home Depot  
U.S.A., Inc.,

Respondents.

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**APPELLANT'S PETITION FOR REHEARING**

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Jake Nixon (S.C. Bar 105949)  
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Attorney for Appellant

Kyle McGann (S.C. Bar 103113)  
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Attorney for Respondents

COMES NOW Appellant Patricia Diehl and respectfully petitions this Court for a rehearing based on a factual mistake. The Notice of Appeal was timely filed and served on June 6, 2025. It was served for a *second* time on July 16, 2025 as a courtesy. Unfortunately, Appellant neglected to file both proofs of service with this Court, and only filed the one related to the courtesy copy, thus making it appear that the NOA was untimely served. However, as described below, the NOA was actually served on June 6, 2025, within the thirty-day window for doing so.

Although Appellant's filings in this matter are hardly a model of procedural clarity, they are not jurisdictionally defective, and the appeal should be reinstated and allowed to proceed. As shown on the attached Proof of Service, service was first effectuated on June 6, 2025 which is within the thirty-day jurisdictional window.

Rule 262(c), SCACR, provides for three methods of serving a Notice of Appeal. The third is “**(3)** Serving a copy on the person by electronic means in a manner provided by order of the Supreme Court of South Carolina.” Rule 262(c)(3), SCACR.

One such electronic means provided by the order of Supreme Court is found in Rule 4(e)(2) of the Rules of E-filing, which states “E-Filing of [a] pleading, motion, or other paper, together with the transmission of an NEF, constitutes proper service under Rule 5, SCRCR, as to all other parties who are E-Filers in that case.”

The E-filing Rules were established by Order of the South Carolina Supreme Court most recently amended on May 27, 2022. As a result, Rule 4 of the E-filing rules constitutes an “electronic means in a manner provided by order of the Supreme Court of South Carolina” as allowed under Rule 262(c)(3), SCACR.

In addition to the above long-standing rules, our Supreme Court specifically provided for what Appellant did here in its order of April 24, 2024 which states in pertinent part as follows:

“(4) Service of the Notice of Appeal. In addition to other methods of service, a party may serve a notice of appeal in accordance with the provisions of any Electronic Filing Policies and Guidelines, or other similar rules established by Order of this Court, that permit the electronic filing and service of documents in a court specified in Rule 203, SCACR.” **Exhibit A.**

The clocked copy of the e-filed Notice of Appeal and the clocked copy of the associated NEF clearly show that all counsel were served with the Notice of Appeal on June 6, 2025, which is within the thirty day jurisdictional window. **Exhibit B.**

Accordingly, Appellant respectfully requests that this Court withdraw its prior order dated July 31, 2025, and permit this appeal to proceed.

Dated: August 14, 2025

Respectfully Submitted,

**POULIN | WILLEY**

/s/ Jake Nixon

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**ATTORNEY FOR APPELLANT**

# The Supreme Court of South Carolina

Re: Methods of Electronic Filing and Service Under Rule  
262 of the South Carolina Appellate Court Rules (As  
Amended April 24, 2024)

Appellate Case No. 2020-000447

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## ORDER

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**(a) Purpose.** Pursuant to Rule 262(a)(3) and (c)(3) of the South Carolina Appellate Court Rules (SCACR), this Court may by order establish methods for the electronic filing and service of documents. For the purpose of this order, "Appellate Court" means the Supreme Court of South Carolina or the South Carolina Court of Appeals.

**(b) Electronic Methods of Filing.** Filings with an appellate court may be made electronically using the methods listed below.

**(1) Electronic Filing by Lawyers.** Lawyers who are licensed to practice law in South Carolina may utilize OneDrive for Business to electronically submit documents for filing with the Supreme Court and the Court of Appeals, and *lawyers are strongly encouraged to use this method of filing*. More information about this method, including registration and filing instructions, is available in the Attorney Information System (<https://ais.sccourts.org/AIS>) under the tab "Appellate Filings." A document filed by this method must be in Adobe Acrobat portable document format (.pdf).

**(2) Filing by E-mail.** Filings may be made by e-mail. For the Supreme Court, the e-mail shall be sent to [suptctfilings@sccourts.org](mailto:suptctfilings@sccourts.org); for the Court of Appeals, the e-mail shall be sent to [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org). This method may not be suitable for large documents, and if it becomes necessary to split a document into multiple parts, the e-mail shall identify the part being sent (i.e., Record on Appeal, Part 1 of 4). A document filed by this method must

be in Adobe Acrobat portable document format (.pdf). Filers shall not utilize any other file format or a file-sharing service when e-mailing documents for filing. The clerk of the appellate court may reject any document submitted by e-mail in a format other than .pdf or using a file-sharing service.

**(3) Faxing Documents.** A document may be filed by an electronically transmitted facsimile copy.<sup>1</sup> While this method is well suited for relatively small documents, depending primarily upon the limitations of the sending fax machine, it may not be possible to send large documents, such as a record on appeal, in a single transmission. If it becomes necessary to split a document into multiple parts to make the fax transmission, a separate cover sheet should be used on each part to identify the document (i.e., Brief of Appellant, Part 1 of 4). In the event the facsimile copy is not sufficiently legible, the clerk of the appellate court may require the party to provide a copy by mail.

**(c) Filing Date and Payment of Fees for Documents Filed Electronically.**

When filed using one of the methods specified in (b) above, a document transmitted and received by 11:59:59 p.m., Eastern Standard Time, shall be considered filed on that day. If a filing fee is required for the document, a check or money order for the fee must be mailed or delivered to the appellate court within five days of the filing; the case name and the Appellate Case Number, if known, should be listed on the check or money order.

**(d) Electronic Service Using AIS E-mail Address.**

**(1) Service on Another Lawyer.** A lawyer admitted to practice law in South Carolina may serve a document on another lawyer admitted to practice law in South Carolina using the lawyer's primary e-mail address listed in the Attorney Information System (AIS). Documents must be e-mailed as an attachment in .pdf. In the absence of consent, a lawyer serving a document by e-mail may not utilize another file format or a file-sharing service. For documents that are served by e-mail, a copy of the sent e-mail shall be enclosed with the proof of service, affidavit of service, or certificate of service for that document. Lawyers are reminded of their obligation under

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<sup>1</sup> The fax number for the Supreme Court is 803-734-1499. The fax number of the Court of Appeals is 803-734-1839.

Rule 410(g), SCACR, to ensure that their AIS information is current and accurate at all times.<sup>2</sup>

**(2) Service by an Appellate Court.** An appellate court may send an order, opinion or other correspondence to a lawyer admitted to practice law in South Carolina using that lawyer's primary e-mail address in AIS. A self-represented litigant may request the appellate court serve the litigant by e-mail under this provision. Any request must be in writing and must include the e-mail address for service. It is the responsibility of the self-represented litigant to immediately inform the appellate court of any change in e-mail address.

**(3) Service on Persons Admitted Pro Hac Vice.** For attorneys admitted pro hac vice under Rule 404, SCACR, service on the associated South Carolina lawyer using an electronic method permitted by this order shall be construed as service on the pro hac vice attorney; if appropriate, it is the responsibility of the associated lawyer to provide a copy to the pro hac vice attorney.

**(4) Service of the Notice of Appeal.** In addition to other methods of service, a party may serve a notice of appeal in accordance with the provisions of any Electronic Filing Policies and Guidelines, or other similar rules established by Order of this Court, that permit the electronic filing and service of documents in a court specified in Rule 203, SCACR. *See* Rule 203(d)(1), SCACR (requiring the notice of appeal be filed with the clerk of the lower court). The party shall file a copy of a Notice of Electronic Filing (NEF), or other similar document, as proof of service of the notice of appeal.

s/ Donald W. Beatty \_\_\_\_\_ C.J.

s/ John W. Kittredge \_\_\_\_\_ J.

s/ John Cannon Few \_\_\_\_\_ J.

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<sup>2</sup> The primary AIS e-mail address for lawyers admitted to practice in South Carolina may be obtained using the search function at <https://www.sccourts.org/attorneys/dspSearchAttorneys.cfm>. Lawyers may update their AIS information at <https://ais.sccourts.org/AIS>.

s/ George C. James, Jr. J.

s/ D. Garrison Hill J.

Columbia, South Carolina  
April 24, 2024

**Certificate of Electronic Notification**

**Recipients**

**Kyle McGann** - Notification transmitted on 06-06-2025 09:55:43 AM.

**William Bowers** - Notification transmitted on 06-06-2025 09:55:43 AM.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
NOTICE OF ELECTRONIC FILING [NEF]

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**A filing has been submitted to the court RE:** 2023CP2301912

**Official File Stamp:** 06-06-2025 09:55:30 AM

**Court:** CIRCUIT COURT

Common Pleas

Greenville

**Case Caption:** Patricia Diehl vs. Home Depot Store SW #1127 ,  
defendant, et al

**Event(s):**

Notice/Notice of Appearance

**Document(s) Submitted:** Appeal/Notice of Appeal to Court of Appeals

**Filed by or on behalf of:** John Jacob Nixon

This notice was automatically generated by the Court's auto-notification system.

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**The following people were served electronically:**

William Chandler Bowers for Patricia Diehl

Kyle David McGann for Charles Hilliard et al

**The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Patrick C. Fant III, Circuit Court Judge

Case No. 2023CP2301912

Patricia Diehl,

Appellant,

v.

Home Depot Store SW #1127;  
Home Depot Management Co. LLC;  
HD Development of Maryland, Inc.;  
Charles Hilliard, Home Depot  
U.S.A., Inc.,

Respondents.

NOTICE OF APPEAL

PATRICIA DIEHL appeals the order of the Honorable Patrick C. Fant III dated April 7, 2025. The Honorable Patrick C. Fant III issued an Order denying Appellant's Motion to Reconsider on May 7, 2025. Appellant received written notice of entry of this order on May 7, 2025. Appellant wishes to appeal the following from Judge Fant's Order:

1. The granting of Charles Hilliard's Motion to Dismiss;
2. The granting of Defendants' Motion to Strike Plaintiff/Appellant's Motion to Amend Complaint, or in the alternative, Denial of Plaintiff/Appellant's Motion to Amend Complaint;
3. The granting of Defendants' Motion for Summary Judgment.

(Signature Page to Follow)

June 6, 2025

Respectfully Submitted,

**POULIN | WILLEY**

/s/ J. Jacob Nixon

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