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Aug 29 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

William A. McKinnon, Circuit Court Judge

Appellate Case No. 2025-000860

Ina Shtukar Steinberg,

Appellant,

v.

SC Property,

Respondent.

**APPELLANT’S RESPONSE IN OPPOSITION TO RESPONDENT’S MOTION TO
EXTEND ITS BRIEFING DEADLINE**

August 29, 2025

s/ Ina S. Steinberg
Ina Shtukar “Steinberg” Esquire
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ATTORNEY FOR APPELLANT

Appellant respectfully opposes Respondent’s motion for additional time to file a response brief, because, as will be discussed in more detail below, (1) Respondent’s request is patently unsupported by good cause, (2) Respondent is represented by two (3) attorneys and both parties had ample opportunity to soft-start their briefs, (4) Respondent demonstrated habitual use of motions to continue and persistent lack of due diligence at the circuit court level, (5) Respondent’s procedural gamesmanship is one of the issues raised on appeal, and (6) an extension would prejudice the undersigned.

As some factual background, first, Respondent is represented by two (2) experienced attorneys with support staff, who entered their appearances shortly after the Notice of Appeal was filed on May 1, 2025. The undersigned, who is a solo practitioner with a heavy case load, is proceeding *pro se*. Second, the court reporter requested and obtained an extension of time to prepare the transcripts, which were received only on August 5, 2025, giving both parties ample opportunity to soft-start their briefs, since only the issues properly preserved at the trial court level can be raised on appeal. *See e.g., State v. King*, 424 S.C. 188, 198-199, 818 S.E.2d 204, 209 (2018). The undersigned was able to finalize and file her brief within 10 days of receiving the transcripts. *See AIB*. Third, as discussed in Appellant’s Initial Brief, at the trial court level, defense counsel routinely asked for extensions of time and engaged in procedural gamesmanship. *See AIB*.

First, procedural rules that set forth filing deadlines are neither aspirational nor advisory—rules of procedure rest “on the theory that securing a fair and orderly process enables more justice to be done in the totality of cases.” *Torres v. Oakland Scavenger Co.*, 487 U.S. 312, 319, 108 S. Ct. 2405, 2410 (1988) (Justice Scalia). While South Carolina Rules of Appellate Procedure do not state so explicitly, a good cause is usually impliedly required to continue a

deadline, to the extent even when the court has discretion to extend a deadline, it cannot exercise its discretion arbitrarily, and an extension cannot be sought for dilatory or other impermissible purposes. *See e.g.*, Rule 40(i)(1), SCRPC (allowing the trial court to grant a motion to continue a case “[i]f good and sufficient cause for continuance is shown”); *Plyler v. Burns*, 373 S.C. 637, 650, 647 S.E.2d 188, 195 (2007) (“[T]he denial of a motion for a continuance on the ground that counsel has not had time to prepare is rarely disturbed on appeal.”); *Purex Corp. v. Walker*, 278 S.C. 388, 390, 296 S.E.2d 868, 869 (1982) (“Whether a judge does or does not abuse his discretion [in ruling on a motion for a continuance] depends upon the facts before him at the time.”); *Morris v. BB&T Corp.*, 438 S.C. 582, 587, 885 S.E.2d 394, 397 (2023) (explaining that a proper “exercise of discretion is not to simply make a decision” but to employ a particular “thought process” guided by sound principles of law); *Jordan v. Hartford Fin. Grp., Inc.*, 435 S.C. 501, 503, 868 S.E.2d 400, 401 (Ct. App. 2021) (“Discretion is not whim, and limiting discretion according to legal standards helps promote the basic principle of justice that like cases should be decided alike.”). Moreover, Rule 240 of SCRAP expressly requires a party to state the grounds for all motions, including motions to extend a deadline pursuant to Rule 263 of SCRAP, and whether an extension of time is warranted depends on the specific facts and circumstances asserted by the requesting party. *Dep’t of Soc. Servs. v. Laura D.*, 386 S.C. 382, 385, 688 S.E.2d 130, 132 (Ct. App. 2009). Professional rules also require each motion to be well-grounded in law and fact. *See* Rule 3.1 of SCRPC (“A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous”).

Respondent’s extension request is self-defeating on its face to the extent neither attorneys’ “workload” nor personal trips present good cause to deviate from even-handed

procedural rules. In the context of a request to extend a deadline, the “touchstone of [] good cause requirement is diligence” and the “good cause standard precludes modification unless the [deadline] cannot be met despite the diligence of the party seeking the extension.” *Faulconer v. Centra Health, Inc.*, 808 Fed. Appx. 148, 152 (4th Cir. 2020); *Sosa v. Airprint Sys., Inc.*, 133 F.3d 1417, 1418 (11th Cir. 1998) (internal citations omitted). Many courts have expressly found that neither caseload nor vacations and holidays are regarded as good cause. *Horowitz v. C.I.R.*, 1998 U.S. App. LEXIS 5873, *1, 98-1 U.S. Tax Cas. (CCH) P50,297, 81 A.F.T.R.2d (RIA) 98-1274 (4th Cir. 1998) (“Conflicting engagements of counsel or employment of new counsel ordinarily will not be regarded as ground for continuance.”) (quoting Rule 134, Tax Court Rules of Practice and Procedure); *Kiewit Infrastructure S. Co. v. W. Sur. Co.*, 2023 U.S. Dist. LEXIS 16331, *3-4, 2023 WL 618920 (M.D.Fla. January 3, 2023) (“The parties also allude to intervening holidays and scheduling conflicts, but Rule 16’s due-diligence standard requires them to account for this.”); *Meador v. QES Wireline LLC*, No. 4:16-cv-02396, 2019 U.S. Dist. LEXIS 106970, 2019 WL 2604831, *1 (S.D. Tex. June 6, 2019) (observing that holidays and vacations do not provide excuses); *Roberson v. BancorpSouth Bank, Inc.*, No. 12-0669-WS-N, 2013 U.S. Dist. LEXIS 130423, 2013 WL 4870839, *1 (S.D. Ala. Sept. 12, 2013) (“scheduling order deadline is neither aspirational nor advisory”). As Justice Joseph Story once aptly put it, the law “is a jealous mistress and requires a long and constant courtship.”

Moreover, Respondent is represented by two (2) experienced attorneys with support staff, yet procedural history at the circuit court level demonstrates Respondent’s recurrent inability to meet generally applicable deadlines and its habitual use of motions to continue to buy additional time. *See also* Comment 1 to Rule 1.3 of SCRPC (“A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer...”).

Respondent's "overarching and persistent lack of diligence throughout the case" is in itself sufficient to deny the present motion, to the extent such motion practices amount to dilatory tactics. *See Cook v. Howard*, 484 Fed. Appx. 805, 818-819, 2012 (4th Cir. 2012) ("the court's focus is appropriately and necessarily on the movant's overall conduct of the case"). Furthermore, one of the issues on appeal has to do with Respondent's procedural gamesmanship¹ at the circuit court level, including its failure to engage in discovery in good faith and to timely serve its summary judgment materials to deprive the undersigned of a fair opportunity to prepare for the hearing and launch evidentiary objections to its summary judgment exhibits by way of a motion to strike. *See AIB*. Lastly, if an extension is granted, Respondent's deadline will fall on October 15, 2025. The undersigned has an immigration court hearing scheduled for October 18, 2025, which means that an extension of time will prejudice the undersigned in terms of her hearing preparation as well as her ability to file a reply brief to Respondent's response brief, to the extent the undersigned will have only 10 days to do so pursuant to Rule 208(a)(3) of SCRAP. Lastly, filing a motion to continue Appellant's reply deadline will come with additional cost to Appellant and expenditure of additional judicial resources. *See e.g., Evans v. M.L. Smith, Jr., LLC*, 2015 U.S. Dist. LEXIS 163800, *9, 2015 WL 8207445 (W.D.LA. December 7, 2015).

Lastly, as to Respondent's request seeking Appellant's consent to its extension, when defense counsel contacted the undersigned, she articulated no explanation what-so-ever for needing additional time. *See Defense Counsel's Email as Exhibit 1*. Naturally, the fact that Appellant's after-the-fact explanation was entirely omitted from its original request casts some doubt on the good faith nature of Respondent's request. In addition, Respondent's motion is

¹ Respondent intentionally delayed the filing of its summary judgment materials until 18 hours before the hearing, in blatant disregard of Rule 6 and 56 of SCRCF to deprive the undersigned of a fair opportunity to prepare for a hearing and file a motion to strike to raise evidentiary objections to inadmissible evidence relied on by Respondent.

vague on details—it fails to even identify which attorney is taking a personal trip abroad. *See* Respondent’s MTET. Moreover, Respondent’s indications concerning the undersigned’s lack of response to its request rest on Respondent’s misapprehension of the South Carolina Appellate Rules, to the extent Rule 263 of SCRAP expressly states that an appellate deadline “may not be extended by agreement of the parties,” depriving the undersign of authority to consent. Furthermore, unlike the Fourth Circuit Rules, South Carolina Rules of Appellate Procedure neither require a party to contact the opponent prior to filing a motion nor require the moving party to state the opponent’s position in a motion. *See* Rule 240, SCRAP; Fourth Circuit Local Rule 27(a). Thus, the undersigned clearly had no duty to respond, especially since Respondent’s email articulated no good cause and given Respondent’s procedural gamesmanship at the circuit court level.

In short, because Respondent’s vague request is unsupported by good cause, in the course of the litigation Respondent demonstrated a chronic lack of due diligence and engaged in procedural gamesmanship, and an extension would prejudice the undersigned, she must respectfully oppose Respondent’s Motion to extend its briefing deadline.

Respectfully submitted,
August 29, 2025.

s/ Ina S. Steinberg
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Steinberg v. SCIGA, Appellate Case No. 2025-000860 - Response Requested re: Appellant's DOM and Respondent's Motion for Extension of Time

Laura Baer <laura@lafavebagley.com>

Fri, Aug 22, 2025 at 2:45 PM

To: "Ina S. Steinberg Esq." <ina@blackandwhiteimmigrationlaw.org>

Cc: Mary LaFave <mary@lafavebagley.com>, Denise Brockwell <Denise@lafavebagley.com>

Good afternoon, Ms. Steinberg,

I have reviewed the Designation of Matter to be Included in the Record on Appeal, which Appellant submitted to the Court of Appeals on August 18, 2025. The email exchange, listed as item "i" under VII. OTHER MATERIALS, does not appear to have been presented to the lower court. If I have overlooked its admission as an exhibit to a filing or at a hearing, please let me know. Otherwise, it is Respondent's position that this item does not belong in the Record on Appeal. *See* Rule 210(c), SCACR. Accordingly, we request Appellant file an Amended Designation removing this item so that we can avoid the necessity of filing a Motion to Strike.

Additionally, I intend to request a 30-day extension of the deadline to file the Initial Brief of Respondent. That would make October 15, 2025, the new deadline. Please let me know whether Appellant consents to this extension, so that I can indicate the same in the Motion.

Best,

Laura

Laura R. Baer

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that Appellant's Response in Opposition was served on all counsel of record by electronic mail addressed as follows:

LAFAVE BAGLEY, LLC
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