

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable Thomas L. Hughston Jr.

Case No. 202O-CP-18-1856

Joseph R. Davis and Jennifer Davis, individually
and as representative of all those similarly situated,.....Appellants-Respondents,
v.

River Oaks Homeowners Association, Inc.,.....Respondent-Appellant,

And

Halcyon Real Estate Services, LLC, and Dorchester Real Estate Services, Inc. Respondents.

**APPELLANTS' MOTION TO FILE AND SERVE APPELLANTS' FINAL BRIEFS
AND FILE THE RECORD ON APPEAL OUT OF TIME**

Appellants-Respondents Joseph and Jennifer Davis ("Appellants") by and through their undersigned counsel, hereby move before this Court for an order permitting Appellants to file and serve their Final Briefs and file the Record on Appeal out of time. Appellants moves pursuant to Rules 2010, 211, 240, 260 and 263 SCACR.

"The time prescribed by [the Appellate Court Rules] for performing any act except the time for serving the notice of appeal under Rules 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof." Rule 263, SCACR. "The appellant must file the Record on Appeal with the clerk of the appellate court no later than the date his brief(s) are

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due under Rule 211.” Rule 210, SCACR. “Within twenty (20) days after the service of the Record on Appeal, each party shall serve a copy of the party's final brief(s) on every other party to the appeal, and file the final brief(s) with the clerk of the appellate court.” Rule 211, SCACR

“Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court. A case shall not be reinstated except by leave of the court, upon good cause shown...” Rule 260, SCACR. “When by these rules or by notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the time may be extended by...the court for cause shown may at any time in its discretion (1) with or without written motion or notice order the period enlarged if request therefor is made before the expiration of the period as originally prescribed or extended or (2) upon motion made after the expiration of the specified period, for good cause shown, permit the act to be done.” Rule 6(b), SCRCR. “This [Rule] authorizes the court to permit an act to be done after the expiration of time upon a showing of good cause. This is the standard applied by courts in practice and is found in Rule 55(c) for relief from entry of default.” Note to 1986 Amendment of Rule 6(b) SCRCR.

“Rule 55(c) permits a party to move to set aside the entry of default. The standard for granting relief from an entry of default under Rule 55(c) is mere "good cause." Rule 55(c), SCRCR. This standard requires a party seeking relief from an entry of default under Rule 55(c) to provide an explanation for the default and give reasons why vacation of the default entry would serve the interests of justice. Once a party has put forth a satisfactory explanation for the default, the trial court must also consider: (1) the timing of the motion for relief; (2) whether the defendant has a meritorious defense; and (3) the degree of prejudice to the plaintiff if relief is granted. The trial court need not make specific findings of fact for each factor if there is sufficient evidentiary support

on the record for the finding of the lack of good cause. A motion under Rule 55(c) is addressed to the sound discretion of the trial court. *Sundown Operating Company, Inc. v. Intedger Industries, Inc.*, 383 S.C. 601, 607-608, 681 S.E.2d 885 (2009) (Citations Omitted). In this Case, on August 6, 2025, Court sent a correspondence to the parties, stating: “the appellant(s) must file an original record on appeal and final brief(s), in either electronic or unbound paper form, as well as one (1) bound paper copy of each. All other parties must file an original final brief and one (1) bound paper copy. The bound copies are due to be served and filed at the same time as the original record on appeal and final briefs. On September 4, 2025, Appellants Respondents served the Record on Appeal on Respondent-Appellant River Oaks. On September 24, 2025, Respondent-Appellant River Oaks timely filed its final briefs. Appellants-Respondents Joseph and Jennifer Davis filed and served their final briefs and filed the Record on Appeal on October 21, 2025, which is untimely.

At the outset, the undersigned counsel states the delay in filing and serving Appellants’ final briefs and filing the Record on Appeal is not the fault of Appellants-Respondents Joseph and Jennifer Davis, but solely the fault of Appellants’ undersigned counsel. I have been very busy with both personal and work activities and events. My case load since September has resulted in multiple regular hearings and trials in multiple counties. I have undertaken to accomplish all these acts while recovering from Covid I contracted in mid-September and then ending up sick in bed again for multiple days the second week of October. I should have moved for an extension of time at the outset when it became apparent, I was not going to be able to timely file and serve Appellants final briefs and timely file the Record on Appeal but did not do so. Now, I humbly request this Court not punish my clients for my own error.

Appellants have filed and served electronic copies of Appellants' Final Briefs with the Court contemporaneous with the filing of this motion. Appellants have filed an electronic copy of the Record on Appeal contemporaneous with the filing of this motion. Further Appellants are mailing to the Court an additional bound hard copy of each of Appellants' final briefs as well as the Record on Appeal contemporaneous with the filing of this Motion. Appellant would assert the matter is now ready for consideration by the Court.

Appellants would respectfully assert this appeal has not experienced protracted delays. Appellants affirmatively believe they have a likelihood to prevail upon the merits of their appeal as set forth in detail in their final briefs. Appellants would respectfully assert given that the matter is ready for consideration by the Court, Respondent will not be prejudiced if this Court were to grant this Motion.

RESPECTFULLY SUBMITTED,

THE LAW OFFICE OF
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IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
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The Honorable Thomas L. Hughston Jr.

Appellate Case No. 2024-001547
Case No. 2020-CP-18-1856

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and as representative of all those similarly situated,.....Appellants,

v.

River Oaks Homeowners Association, Inc.,
Halcyon Real Estate Services, LLC, and
Dorchester Real Estate Services, Inc. Respondents.

CERTIFICATE OF SERVICE

I certify that on this 21th day of October 2025, I have served Appellants' Joseph and Jennifer Davis' Final Brief, Final Response Brief and Motion to file and serve Appellants' final briefs and file the Record on Appeal out of time, upon all other counsel of record at the email address listed for said counsel on AIS as follows:

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October 21, 2025
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RE: Joseph R. Davis and Jennifer Davis individually and as representative of all those similarly situated, v. River Oaks Homeowners Association, Inc., Halcyon Real Estate Services, LLC, and Dorchester Real Estate Services, Inc.
Case No. 2020-CP-18-1856
Appellate Case No. 2024-001547

Madam Clerk:

Enclosed please find in regard to the above referenced matter the following:

- 1) Appellants Joseph and Jennifer Davis' Final Brief as Appellant and Final Response Brief as Respondent (Bound Copies Placed in the Mail);
- 2) An Electronic Copy of the Record on Appeal Volumes I-X (Bound Copy Placed in the Mail);
- 3) Appellants Joseph R. Davis and Jennifer Davis' Motion to file and serve Appellants' final briefs and file the Record on Appeal out of time;
- 4) Certificate of Service for the Motion and Briefs, and
- 5) Corresponding Motion filing fee (Placed in the Mail with the Bound Copies)

I kindly request that you file the same.

RESPECTUFLLY SUBMITTED,

THE LAW OFFICE OF
DAVID CONOR KEYS, LLC



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