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Dec 04 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Jessica A. Salvini, Circuit Court Judge

Case No. 2025-001494

Joshua Hawkins.....Appellant,

v.

Delta Airlines, Inc.,.....Respondent.

APPELLANT’S RETURN TO RESPONDENT’S MOTION TO DISMISS

COMES NOW, Appellant, and respectfully requests that the Court deny Respondent’s Motion to Dismiss this appeal.

Although Respondent states repeatedly in its Motion that this Court must dismiss this appeal, Appellant respectfully submits that the Court has the authority and discretion to extend the time for Appellant to file his initial brief and designation of matter. *Henning v. Kaye*, 307 S.C. 436, 415 S.E.2d 794 (1992).

Appellant filed a motion to extend the time to file his initial brief on November 25, 2025. If the Court grants the motion pursuant to SCACR 263(b) and *Henning*, then Appellant may timely file his initial brief and designation of matter by December 17, 2025. Appellant apologizes for the need for an extension, and does not take the position that any Appellate Court Rules should be violated. However, the Court does have the discretion and authority to grant extensions, even where multiple violations exist.

Although this Court would be completely justified in dismissing this appeal based on appellant's numerous violations of the Rules, we decline to do so and deny the motion to dismiss as to Henning. Instead, Appellant shall, within fifteen (15) days of this order, serve and file an initial brief that does fully comply with Rule 207, SCACR.

Id., 307 S.C. 436, 415 S.E.2d 794 (1992).

Additionally, Respondent has argued that Appellant has not shown good cause. Appellant respectfully submits that the Court may find good cause and grant the extension based on the filings of the parties. In an abundance of caution, Appellant submits herewith an affidavit which confirms the reason for the previous delay – a calendaring error on the part of Appellant's office. Appellant submits that an extension will cause no harm or prejudice to the opposing party. In the past, the undersigned has worked with counsel regarding continuances, and Appellant requested consent before Appellant filed the motion for an extension here. While consent alone does not create the extension, and this Court determines whether an extension will be granted, Appellant hoped to file his motion for an extension with the consent of the opposing party.

Respondent also argues that the proper path forward is for this Court to dismiss the appeal, then for Appellant to move to reinstate the appeal in order to seek the Court's mercy. This does not serve economy, and the Court is required to follow that path if the Court sees fit to grant an extension. As set forth above, this Court has authority and discretion to grant an extension of time to file and serve the initial brief and designation of matter. If the Court is inclined to grant the motion, then Appellant submits it would create an unnecessary complication for the Court to enter a dismissal, and then consider a motion to reinstate the appeal, along with another return.

For the reasons set forth above, Appellant respectfully requests that Respondent's motion to dismiss be denied. Appellant believes an extension will serve justice and that it will cause no prejudice to the opposing party.

Respectfully Submitted,

s/ Joshua T. Hawkins

Joshua T. Hawkins, S.C. Bar #78470

Helena L. Jedziniak, S.C. Bar #100825

Sulaiman S. Ahmad, S.C. Bar #106665

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Attorneys for Appellant

Greenville, SC
December 4, 2025

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AFFIDAVIT OF CANDIE EDWARDS

I, Candie Edwards, being duly sworn, depose and state as follows:

1. I am the paralegal for the Appellant in the above-captioned matter.
2. On October 16, 2025, the transcripts for this case were delivered to the Court of Appeals.
3. I mistakenly believed that a letter from the Court regarding briefing deadlines would be forthcoming. Because of this misunderstanding, the thirty (30) day deadline for the Appellant's Initial Brief, calculated from October 16, 2025, and due November 17, 2025, was not entered on the calendar.
4. The failure to calendar the deadline was entirely inadvertent. I deeply regret this oversight and assure the Court that it was not intentional, nor was it a reflection of disregard for the Court's rules.

5. Upon realizing the mistake, I immediately took corrective action. On November 25, 2025, a Motion for Extension of Time to file the Appellant's Initial Brief was filed with the Court of Appeals.
6. I humbly and respectfully ask the Court to accept this affidavit as an explanation of the circumstances. I sincerely apologize for the error and plead for the Court's leniency in granting the requested extension so that the Appellant's case may be heard fully and fairly.

Further affiant sayeth not,

Candie Edwards

Candie Edwards, *Paralegal*
HAWKINS & JEDZINIAK, LLC

SWORN to before me this

4th Day of December 2025.

Malinda Alexander
Notary Public for South Carolina

My Commission Expires 6/3/2034



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PROOF OF SERVICE

I certify that on this date, December 4, 2025, I filed the foregoing Appellant’s Return to Respondent’s Motion to Dismiss and the Affidavit of Candie Edwards with the South Carolina Court of Appeals via electronic filing to ctappfilings@sccourts.org. A copy was also served on Respondents via electronic service by email, addressed to the attorney of record below:

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