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Feb 05 2026

SC Court of Appeals

**STATE OF SOUTH CAROLINA**

**IN THE COURT OF APPEALS**

Appellate Case No. 2025-001313

Scott R. Manna,  
Appellant,

v.

Jack Sinclair, Esq.,  
Respondent.

**APPELLANT'S RESPONSE IN  
OPPOSITION TO RESPONDENT'S  
MOTION TO DISMISS**

**AND MOTION FOR LEAVE TO FILE  
SUBSTITUTE INITIAL BRIEF**

Comes now the Appellant, Scott R. Manna, pro se, and respectfully submits this Response in Opposition to Respondent's Motion to Dismiss and Motion to Stay Briefing Deadlines. In support thereof, Appellant states:

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## I. INTRODUCTION

Respondent seeks dismissal of this appeal based upon alleged structural and formatting deficiencies in Appellant's Initial Brief.

While Appellant acknowledges that the Initial Brief may not have fully complied with every technical requirement of Rule 208(b), SCACR, dismissal of the appeal is neither required nor appropriate under these circumstances.

The appeal presents substantive legal issues concerning the Circuit Court's dismissal of Appellant's professional negligence action. Those issues should be resolved on the merits rather than through procedural forfeiture.

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## II. ARGUMENT

### **A. Dismissal Under Rule 260(a), SCACR Is Discretionary and Disfavored Where Deficiencies Are Curable**

Rule 260(a), SCACR, permits dismissal for failure to comply with appellate rules; however, such dismissal is discretionary and generally reserved for cases involving persistent noncompliance, bad faith, or prejudice.

Here:

- Appellant timely filed his Initial Brief and Designation of Matter.

- Upon receiving the January 6, 2026 Deficiency Notice regarding signature issues, Appellant immediately corrected and refiled signed copies the same day.
- There has been no willful disregard of the rules.
- There has been no repeated refusal to comply.
- There has been no demonstrated prejudice to Respondent.

The deficiencies alleged are structural and correctable, not jurisdictional.

South Carolina appellate courts have consistently preferred resolution on the merits where procedural defects are curable and no prejudice exists.

## **B. The Appeal Raises Purely Legal Issues Subject to De Novo Review**

The appeal challenges the Circuit Court's dismissal of Appellant's Complaint on two legal grounds:

1. That Respondent owed no duty to Appellant as a matter of law; and
2. That dismissal was proper for failure to file an expert affidavit under S.C. Code Ann. § 15-36-100.

These are questions of law subject to de novo review.

This Court is fully capable of reviewing these legal determinations without prejudice to Respondent, particularly where Appellant seeks leave to submit a fully compliant substitute brief.

Dismissal at this stage would elevate technical structure over substantive judicial review.

## **C. Leave to File a Substitute Initial Brief Is the Appropriate Remedy**

To the extent this Court determines that the Initial Brief does not strictly comply with Rule 208(b), SCACR, Appellant respectfully moves for leave to file a substitute Initial Brief that includes:

- A clearly stated Statement of Issues on Appeal;
- A Standard of Review section;
- Structured Argument with citation to relevant authority;
- Proper references to the Record on Appeal.

Granting leave to file a substitute brief promotes judicial economy, preserves appellate review on the merits, and avoids unnecessary procedural dismissal.

Respondent suffers no prejudice from such relief.

### III. CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court:

1. Deny Respondent's Motion to Dismiss;
2. Deny Respondent's Motion to Stay Briefing Deadlines; and
3. Grant Appellant leave to file a substitute Initial Brief compliant with Rule 208, SCACR, within a time set by the Court.

Respectfully submitted this 5th day of February, 2026.

  
Scott R. Manna

Appellant, Pro Se

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**SC Court of Appeals**

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## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served this 5th day of February, 2026, via electronic mail and U.S. Mail upon:

Brenten H. DeShields, Esq.

David W. Overstreet, Esq.

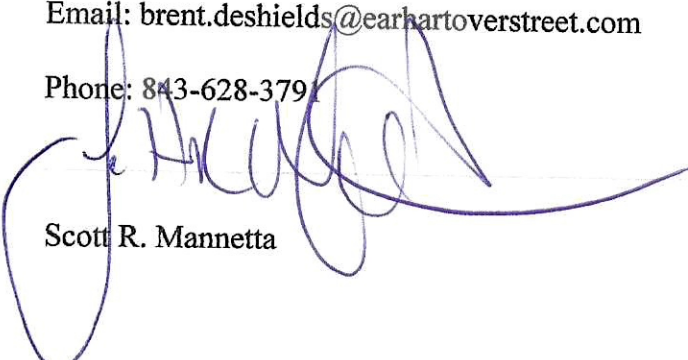
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