



STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas  
The Honorable R. Lawton McIntosh

Case No. 2024-CP-04-02229  
Appellate Case No. 2025-001549  
Appellate Case No. 2025-002012

---

Moats Construction, Inc. and The Green Man, LLC,

Appellants,

v.

APB Partnership, LLC, Wesley Edwards, 2916 N. Main, LLC, W.H. Bass, Inc., Whataburger  
Restaurants, LLC, and United Community Bank,

Respondents.

---

APPELLANTS' RETURN TO RESPONDENTS' MOTION REQUESTING PERMISSION TO  
FILE INITIAL BRIEF AND DESIGNATION OF ADDITIONAL MATTER OUTSIDE  
DEADLINES

---

The Appellants, replying to Respondents' motion for permission to submit their initial brief and designation of additional matter outside the applicable deadlines, submit that the motion should be denied. Respondents' Initial Brief and Designation of Matter was due on January 15, 2026. However, Respondents failed to request an extension until February 9, 2026—twenty-five days after the deadline had already passed. There is no good cause for Respondents' failure to adhere to the rules of this Court; therefore, Respondents' motion should be denied.

“[T]he South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State.” *Henning v. Kaye*, 307 S.C. 436, 436, 415 S.E.2d 794, 794 (1992). Rule 263(b), SCACR, permits the Court to extend deadlines, but such relief is not automatic and requires a showing of good cause. The South Carolina Supreme Court has indicated that “[t]he failure to accurately calendar a filing deadline will not constitute good cause for reinstating an appeal in every instance.” *Morris v. BB&T Corp.*, 438 S.C. 582, 588, 885 S.E.2d 394, 398 (2023).

Respondents’ own motion concedes the reason for their failure to timely file their brief as “the press of other work and a failure to accurately calendar the deadline.” These are not circumstances beyond Respondents’ control, nor does a calendaring error constitute good cause. Having offered no justification that rises to the level of good cause, the motion should be denied.

Compounding this failure, the Court itself issued a directive on January 20, 2026, five days after the deadline had already passed, placing Respondents on notice that their brief had not been filed. Even then, Respondents waited an additional twenty days, until February 9, 2026, to file their brief. Respondents offer no explanation for this additional delay. The suggestion in the motion that Respondents “have now engaged experienced appellate counsel” does not excuse the failure to comply with the Court’s deadline in the first instance, or the failure to seek timely relief after the Court’s January 20 directive.

Respondents missed their January 15, 2026 deadline due to a self-admitted calendaring error, were placed on notice by this Court’s January 20 directive, and still waited another twenty days to seek relief. Their motion concedes the absence of good cause. For the foregoing reasons, Appellants respectfully request that this Court deny Respondents’ motion.

/s/ David L. Paavola

Brian A. Autry, SC Bar No.: 69401

David L. Paavola, SC Bar No.: 100714

Caitlin S. Cameron, SC Bar No.: 106286

KENISON, DUDLEY & CRAWFORD, LLC

440 Knox Abbott Drive, Suite 510

Cayce, South Carolina 29033

(864) 242-4899

Email: [autry@conlaw.com](mailto:autry@conlaw.com)

Email: [paavola@conlaw.com](mailto:paavola@conlaw.com)

Email: [cameron@conlaw.com](mailto:cameron@conlaw.com)

*Attorneys for Appellants*

February 19, 2026

Cayce, South Carolina

STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

**Feb 19 2026**

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas  
The Honorable R. Lawton McIntosh

**SC Court of Appeals**

Case No. 2024-CP-04-02229  
Appellate Case No. 2025-001549  
Appellate Case No. 2025-002012

Moats Construction, Inc. and The Green Man, LLC,

Appellants,

v.

APB Partnership, LLC, Wesley Edwards, 2916 N. Main, LLC, W.H. Bass, Inc., Whataburger Restaurants, LLC, and United Community Bank,

Respondents.

---

PROOF OF SERVICE

---

I certify that the Appellants' Motion for Extension has been served on John S. Nichols and Daniel L. Draisen, counsel for Respondents APB Partnership, LLC, Wesley Edwards, and 2619 N. Main, LLC, by email sent to their primary e-mail addresses listed in the Attorney Information System, [john@bluesteinattorneys.com](mailto:john@bluesteinattorneys.com), [daniel@injuredsc.com](mailto:daniel@injuredsc.com), Paul H. Hoefler and C. Elizabeth Weston, counsel for Respondent United Community Bank, by email sent to their primary e-mail addresses listed in the Attorney Information System, [phoefler@robinsongray.com](mailto:phoefler@robinsongray.com) and [lweston@robinsongray.com](mailto:lweston@robinsongray.com), Dana Woodrum Lang, counsel for W.H. Bass, Inc., by email sent to her primary e-mail address listed in the Attorney Information System, [dana.lang@wbd-us.com](mailto:dana.lang@wbd-us.com), and Christopher B. Major, counsel for Whataburger Restaurants, LLC, by email sent to his primary e-mail address listed in the Attorney Information System, [cmajor@hsblawfirm.com](mailto:cmajor@hsblawfirm.com), on February 19, 2026.

s/David L. Paavola

Brian A. Autry, SC Bar No.: 69401

David L. Paavola, SC Bar No.: 100714  
Caitlin S. Cameron, SC Bar No.: 106286  
KENISON, DUDLEY & CRAWFORD, LLC  
440 Knox Abbott Drive, Suite 510  
Cayce, South Carolina 29033  
(864) 242-4899  
Email: [autry@conlaw.com](mailto:autry@conlaw.com)  
Email: [paavola@conlaw.com](mailto:paavola@conlaw.com)  
Email: [cameron@conlaw.com](mailto:cameron@conlaw.com)  
*Attorneys for Appellants*

February 19, 2026  
Cayce, South Carolina