

IN THE COURT OF APPEALS
STATE OF SOUTH CAROLINA

Robert Barnett, as Trustee of the RH 401(k) Plan,
Respondent,

v.

Erica Lynn Davis,
Austin J. Davis,
and
Signature Gain Express Trust, DTE 06/22/2022
(An Irrevocable Express Trust Organization),
Harol Alezu Lozano Moran, Sole Trustee,
Defendants,

of which **Erica Lynn Davis and Austin J. Davis** are the **Appellants**.

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Feb 17 2026
SC Court of Appeals

Appeal From the Greenville County Court of Common Pleas
Appellate Case No. **2025-002218**

**MOTION FOR PERMISSION TO FILE APPELLANTS' INITIAL BRIEF AND
DESIGNATION OF MATTER OUT OF TIME**

PURSUANT TO RULES 208 AND 240, SCACR

The Appellants, Austin J Davis and Erica L Davis, respectfully move this Court for permission to file their Initial Brief and Designation of Matter outside the deadlines prescribed by Rules 208 and 240, SCACR. In support of this motion, Appellants show the following:

1. On February 5, 2026, the Clerk of Court issued correspondence advising that the deadline for serving and filing the Initial Brief and Designation of Matter had passed and directing Appellants to file the documents within ten (10) days together with a motion requesting permission to file outside the deadline.
2. Appellants state that any delay in filing was the result of good-faith efforts to complete the Record on Appeal, ensure all transcripts were properly ordered and served, and prepare the Initial Brief in compliance with Rules 208 and 210, SCACR. Appellants are self-represented and have diligently attempted to comply with all procedural

requirements.

3. There was **substantial confusion regarding the transcript**, which directly affected Appellants' calculation of the Rule 208 briefing deadline.
 - On **November 26, 2025**, Appellants received a transcript from the court reporter that was **incorrect**, not being the transcript of the relevant hearing.
 - Appellants promptly contacted the reporter to resolve the discrepancy, and the **correct transcript** was not provided until **December 3, 2025**.
 - The transcript was then **filed in the circuit court on December 9, 2025**, and Appellants reasonably believed that this constituted service on all parties through the court's electronic notification system, as is customary.
 - Appellants' calculation of the Rule 208 deadline was therefore based on the understanding that **service occurred upon the filing of the transcript in the circuit court** on December 9, 2025.
4. Appellants did not willfully disregard appellate deadlines. The delay resulted from a reasonable and good-faith misunderstanding caused by the transcript irregularities described above, a misunderstanding in deadline requirements, combined with the significant work required to compile the Record on Appeal, verify transcript filing and service, and finalize the Initial Brief.
5. Rule 240, SCACR, grants the Court discretion to accept filings out of time upon a showing of good cause. South Carolina appellate courts recognize that **excusable neglect**, a **reasonable misunderstanding of procedural timelines**, and **good-faith efforts to comply**, especially by pro se litigants, constitute sufficient cause for relief from strict filing deadlines.
6. The Respondent will not be prejudiced by the acceptance of the out-of-time filings. The Record on Appeal has been completed, the Initial Brief is prepared, and Appellants now present both filings contemporaneously with this motion.

WHEREFORE, Appellants respectfully request that this Court:

- A. Grant permission to file their Initial Brief and Designation of Matter outside the deadlines set by Rules 208 and 240, SCACR;
- B. Accept the attached filings as timely submitted; and
- C. Grant such other and further relief as the Court deems just and proper.

Respectfully presented,

s/ Erica Lynn Davis, Appellant
131 Roundtree Drive
Simpsonville, SC 29681

s/ Austin J. Davis, Appellant
131 Roundtree Drive
Simpsonville, SC 29681

Date: February, 14, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of February, 2026, I served a copy of the foregoing Motion for Permission to File Out of Time, together with the Appellants' Initial Brief and Designation of Matter, upon counsel for Respondent via the Court's electronic filing and notification system used by the Appellate Court (which Respondent should receive notification of on Monday, February 16, 2025)

s/ Austin J. Davis

Austin J. Davis, Appellant
Self-Represented
131 Roundtree Drive,
Simpsonville, SC, 29681

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