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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM SUMTER COUNTY

The Honorable George M. McFaddin, Jr., Circuit Court Judge

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Appellate Case No. 2025-002582  
Civil Action No. 2023-CP-43-00462

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Gale Lyons.....Appellant,

v.

Walmart, Inc., Walmart Real Estate Business Trust, Steve McCane, Keith Lominac, Whitney Nicole Doe Individually and as Employee/Agent of Walmart Supercenter #511, Employee/Agent of Walmart, Inc., Employee/Agent of Walmart Real Estate Business Trust, Employee/Agent of Walmart Stores East, Inc. and Employee/Agent of Walmart Stores East, LP, Jane Doe #1, Jane Doe #2, Jane Doe #3 Individually and as Employee/Agent of Walmart Supercenter #511, Employee/Agent of Walmart, Inc., Employee/Agent of Walmart Real Estate Business Trust, Employee/Agent of Walmart Stores East, Inc., and Employee/Agent of Walmart Stores East, L.P., Jane Doe #3, Individually and as Employee/Agent of Walmart Supercenter #511, and John Doe, customer of Walmart.....Respondents,

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**RESPONDENTS' REPLY TO  
APPELLANT'S RETURN TO  
RESPONDENT'S MOTION TO DISMISS**

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**TABLE OF AUTHORITIES**

*Cases*

Elam v. S.C. Dept. of Transp., 361, S.C. 9, 14-15, 602 S.E 2d 772, 775 (2004) ..... 4  
Mears v. Mears, 287 S.C. 168, 169, 337 S.E.2d 206, 207 (1985)..... 4  
State v. Burton 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 (2003)..... 4

*Rules*

Rule 203(b)(1), SCACR ..... 3  
Rule 263(a), SCACR..... 3  
Rule 6, SCRCF..... 3

Respondents submit the following Reply to Appellant’s Return to Respondent’s Motion to Dismiss this Appeal (“Appellant’s Return”).

**I. Appellant’s Notice of Appeal was Not Served Within the Jurisdictional Time Limit**

Pursuant to Rule 203(b)(1), SCACR, “To appeal from an order or judgment, a party must serve on all respondents a notice of appeal within thirty (30) days after receipt of written notice of entry of the order or judgment.” Appellant’s Return states she “received written notice of entry of the Circuit Court’s Order via U.S. First Class Mail on *Saturday, November 29, 2025.*” (Appellant’s Return at ¶’s 1; 7; 10; and, V1, emphasis added.) Therefore, Appellant concedes the triggering date was November 29, 2025, which made Appellant’s deadline to serve Respondents with the Notice of Appeal on December 29, 2025. Appellant served the Notice of Appeal one day too late—on December 30, 2025. (Id. at ¶ 5; and V). Appellant missed the critical, jurisdictional requirement of timely service as set forth in Rule 203(b)(1), SCACR. As such, this appeal must be dismissed.

**II. Appellant’s Return Clearly Misinterprets the Rules for Computing Time**

Appellant’s Return improperly argues that certain holidays should not be counted when calculating the thirty-day period for serving a notice of appeal. In support of this argument, Appellant improperly relies on Rule 6, SCRCF. Rule 6, SCRCF governs the computation of time in proceedings before the circuit court. Appellate deadlines, however, are governed by the South Carolina Appellate Court Rules. Nevertheless, both rules state the following: “The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a state or federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday.” Rule 263, SCACR.

Intermediate Saturdays, Sundays, and legal holidays are included in the computation of the

prescribed thirty-day period. See Rule 263, SCACR. All intervening weekends and holidays must be counted, unless *the final day* of the prescribed period falls on a weekend or legal holiday. Here, utilizing Appellant’s receipt date of November 29, 2025, the deadline to timely serve the Notice of Appeal is December 29, 2025, which does not fall on a weekend or legal holiday. Appellant’s Return excludes intermediate holidays from her computation of the deadline, which is contrary to the plain language of Rule 263, SCACR, and cannot be used to save her tardy service on Respondents.

Appellant’s status as a self-represented litigant does not alter these requirements. South Carolina courts have consistently held that pro se litigants are bound by the same rules as represented parties. See, e.g. State v. Burton, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 (2003). Additionally, the Supreme Court has routinely held appellate courts have no authority to extend, waive, or ignore the deadline for service of a Notice of Appeal, regardless of circumstances. See, e.g. Mears v. Mears, 287 S.C. 168, 169, 337 S.E.2d 206, 207 (1985); see also Elam v. S.C. Dept. of Transp., 361, S.C. 9, 14-15, 602 S.E. 2d 772, 775 (2004). Therefore, this appeal should be dismissed.

### **III. Appellant Failed to Comply with the Service Requirements of the Appellate Court Rules**

Appellant also failed to comply with the service requirements governing notices of appeal. Under Rule 203(d)(1)(B), South Carolina Appellate Court Rules, a notice of appeal must include a certificate of service demonstrating that the notice was served upon all respondents.

Appellant’s notice of appeal does not include the certificate of service required by these rules, further, Appellant’s “Proof of Filing” is not sufficient to constitute a certificate of service. Additionally, even if the “Proof of Filing” is deemed sufficient, the Notice of Appeal was not served until December 30, 2025 – one day past the jurisdictional deadline. The absence of a

certificate of service prevents verification that the notice was properly served on Respondent as required by the Appellate Court Rules.

Thus, even aside from the untimely filing of the notice of appeal, Appellant has failed to comply with the mandatory procedural requirements governing service of appellate filings.

### **CONCLUSION**

Because Appellant failed to serve the notice of appeal within the jurisdictional thirty-day deadline required by Rule 203(b)(1), South Carolina Appellate Court Rules, this Court lacks jurisdiction over the appeal. Appellant's misinterpretation of the rules governing time computation and failure to comply with the service requirements of the Appellate Court Rules further support dismissal.

Respondent respectfully requests that this Court **grant Respondent's Motion to Dismiss and dismiss Appellant's appeal.**

Respectfully submitted,

*s/Robert C. Blain*  
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**CERTIFICATE OF SERVICE**

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I certify that I have served the Reply Motion to Appellant's Response by depositing a copy of the same in the United States Mail, first-class, postage prepaid, addressed to *Pro Se* Plaintiffs as follows:

Gale Lyons  
P.O. Box 6204  
Columbia, South Carolina 29260  
*Pro Se Plaintiff*

Respectfully submitted,

*s/Robert C. Blain*

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