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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS  
Sumter County

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

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

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,

**APPELLANT’S MEMORANDUM IN OPPOSITION  
TO RESPONDENTS’ MARCH 11, 2026,  
RESPONSE TO APPELLANT’S RETURN IN  
OPPOSITION TO RESPONDENTS’ MOTION  
TO DISMISS APPEAL**

Appellant, Gale Lyons, appearing *pro se*, respectfully submits this Memorandum in Opposition to Respondent’s Motion to Dismiss the appeal as untimely. Respondent asserts that the Notice of Appeal, filed on December 30, 2025, was one day late. However, under binding

South Carolina law, the doctrine of *equitable tolling* applies where extraordinary circumstances beyond a litigant’s control prevent timely filing. This case falls squarely within that doctrine.

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**TABLE OF AUTHORITIES**  
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*Rink v. Richland Mem’l Hosp.*, 310 S.C. 193, 422 S.E.2d 747 (S.C. 1992).....3  
*Ross v. Ross*, 456 U.S. 798 (1982).....3,4  
 Rule 263, South Carolina Appellate Court Rules (SCACR).....3,4  
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**I. Introduction**

Respondent argues that Appellant’s Notice of Appeal was untimely by one day. Appellant acknowledges the filing date but submits that dismissal is improper because extraordinary circumstances—including the sudden death of Appellant’s mother, severe grief, psychiatric intervention, and holiday-period emotional instability—directly impaired Appellant’s ability to file sooner. Appellant needed time to heal from the profound loss of her mother, and she is still in the process of healing. South Carolina law recognizes equitable tolling in precisely such circumstances.

**II. Equitable Tolling Under South Carolina Law**

South Carolina courts apply equitable tolling when a litigant acts diligently but is prevented from timely filing by circumstances beyond their control. In *Mose v. South Carolina*, the Supreme Court held that a filing must be deemed timely where the litigant did everything

reasonably possible before the deadline and external factors caused the delay. *Rink and Ross* likewise recognize tolling where procedural confusion or personal hardship interferes with compliance. Appellant's circumstances fall squarely within this binding precedent.

### **III. Extraordinary Circumstances: Death of Appellant's Mother**

On October 17, 2025, Appellant's mother, Ada B. Wright, died unexpectedly in Appellant's home while Appellant was her full-time caregiver. Her death occurred the day before the memorial service of Appellant's uncle, compounding the emotional trauma. This sudden loss triggered a severe grief response requiring counseling and psychiatric care. Appellant experienced impaired concentration, emotional instability, and difficulty performing routine tasks. These conditions directly affected her ability to meet legal deadlines (**Exhibit A**).

### **IV. Rule 263 SCACR and Reasonable Computation of Time**

The Order was delivered by USPS late on November 29, 2025, after holiday-related delays. Appellant's USPS-shipped Amazon package (Tracking No. 9361289745057003858981) was delivered on November 25 at 5:30 PM, confirming normal delivery times. Under Rule 263, SCACR, the day of service is excluded, making November 30 the first day of the appeal period. Appellant therefore reasonably calculated December 30, 2025, as the thirtieth day and filed in good faith on that date (**Exhibit B-USPS Delivery Time**).

### **V. Impaired Functioning and Misinterpretation of Rules**

Appellant acknowledges that she mistakenly relied on Rule 6, SCRCP, rather than the appellate rules. This error did not arise from neglect but from the cognitive effects of acute grief, psychiatric distress, and impaired concentration following her mother's death. Her misinterpretation was a direct result of trauma—not carelessness.

### **VI. Holiday-Period Grief and Cognitive Disruption**

Appellant's mother died immediately before the Thanksgiving and Christmas holidays, a period widely recognized as one of heightened depression for individuals grieving the loss of a parent. The holiday season intensified Appellant's symptoms and further impaired her ability to manage complex responsibilities, including legal filings.

### **VII. Minimal Delay and Diligent Effort**

Respondent alleges a one-day delay. Such a minimal delay causes no prejudice to Respondent or the Court. Appellant filed her Notice of Appeal as soon as she regained sufficient emotional and cognitive stability to do so.

### **VIII. Pro Se Status**

Appellant is proceeding *pro se* and had no legal assistance to help her navigate appellate deadlines during a period of acute grief and psychiatric treatment. South Carolina courts recognize that *pro se* litigants may be granted equitable consideration when extraordinary circumstances are present. Appellant miscalculated using circuit court deadlines Rule 6, SCRPC.

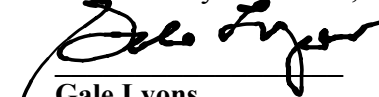
### **IX. Public Policy Favoring Decisions on the Merits**

South Carolina courts strongly prefer resolving cases to their merits rather than on technical procedural grounds. Applying equitable tolling here prevents an unjust forfeiture of appellate rights and aligns with the humanitarian principles reflected in *Mose*, *Rink*, and *Ross*.

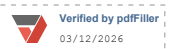
For the foregoing reasons, Appellant respectfully requests that this Court:

1. Deny Respondent's Motion to Dismiss;
2. Accept Appellant's Notice of Appeal as timely under the doctrine of equitable tolling and the reasonable application of Rule 263, SCACR; and
3. Allow the appeal to proceed on its merits.

Respectfully submitted,



Gale Lyons  
1969 Golfair Rd  
Sumter, SC 29154



March 12, 2026

**VOTE DAILY!**  **Vote Feb. 26 - March 25**

**ADA BURNS WRIGHT**

Posted Friday, October 17, 2025 5:46 pm

Ada Burns Wright, 84, widow of George Wright Jr. and daughter of the late Larry Burns Sr. and Lena Walters Burns, was born on July 5, 1941, in Sumter. She departed this life on Friday, Oct. 17, 2025, at her residence.

Family will receive friends at the home, 1969 Golfair Road, Sumter, daily from 4:30 to 7 p.m. Mask is required in accordance with the Covid-19 guidelines.

Job's Mortuary Inc., 312 S. Main St., Sumter, is in charge of arrangements.

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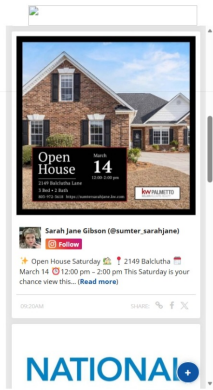
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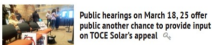


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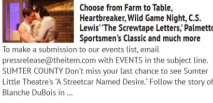
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SC Court of Appeals

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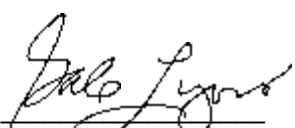
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Respondents,

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the following documents: **Appellant’s Memorandum in Reply to Respondents’ March 11, 2026, Reply to Appellant's Opposition to Respondents’ Motion to Dismiss Appeal** upon counsel for Respondents by emailing and faxed to 803-790-8841 and 803-771-4484.

**Robert C. Bain, Esquire**  
Bar No. 100024  
rbain@collinsandlacy.com  
**Danielle C. Wilson, Esquire**  
Bar No. 106467  
dwilson@collinsandlacy.com  
**COLLINS & LACY, P.C.**  
1330 Lady Street, Sixth Floor  
Columbia, SC 29201  
(803) 256-2660

Respectfully submitted,   
Gale Lyons, Appellant, *Pro Se*  
1969 Golfair Rd  
Sumter, SC 29154

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