

# The South Carolina Court of Appeals

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.

Appellate Case No. 2025-002582

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## ORDER

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On December 30, 2025, Appellant filed a notice of appeal, stating she received the amended order denying her motion for reconsideration on November 29, 2025, and that she served the notice of appeal on Respondents on December 29, 2025. On February 25, 2026, Respondents filed a motion to dismiss the appeal arguing Appellant's service of the notice was untimely. First, Respondents argue Appellant was required to serve her notice of appeal within thirty days of November 21, 2025, when the circuit court issued its order denying her motion for reconsideration, and she did not. Second, Respondents argue that if the triggering date for service of the notice of appeal was Appellant's receipt of the amended order denying her motion for reconsideration, then Appellant's service of the notice

on December 30, 2025, was not timely. Appellant filed a return, arguing she timely served her notice on December 30, 2025, because she had until January 4, 2026, based upon her not counting federal holidays and applying Rule 6 of the South Carolina Rules of Civil Procedure. In her return, Appellant admitted she did not serve her notice on December 29, 2025, as stated in her certificate of service, but listed that date because it was the date she prepared the notice of appeal. She further admitted she did not serve her notice until December 30, 2025. Thereafter, Respondents filed a reply, reiterating their arguments for dismissal. Appellant then filed a memorandum in opposition to Respondents' motion to dismiss requesting application of equitable tolling.

First, Appellant's memorandum in opposition to Respondent's motion to dismiss is the equivalent of surreply and requires leave of court to file, which Appellant did not have. Nevertheless, we exercise our discretion and consider Appellant's memorandum.

Second, although Respondents argue Appellant was required to serve her notice of appeal within thirty days of November 21, 2025, when the circuit court issued its order denying her motion for reconsideration, and not November 29, 2025, the date Appellant received notice of the amended order, we need not decide which date is correct because Appellant failed to serve her notice of appeal within thirty days of the later of those dates. Accordingly, we dismiss the appeal as untimely served. *See* Rule 203(b)(1), SCACR (providing a notice of appeal from the court of common pleas must be served within thirty days after receipt of written notice of entry of the order or judgment); *id.* (providing a *timely* motion to alter or amend stays the time for appeal and the time shall run from receipt of written notice of entry of the order granting or denying the motion); Rule 263(a), SCACR ("In computing any period of time prescribed or allowed by these Rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included."); *id.* ("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."); *id.* ("No additional time shall be allowed after service by mail or upon a statutory agent."); *id.* ("Rule 6(e) [of the South Carolina Rules of Civil Procedure] is not applicable to these rules, and no additional time shall be allowed by reason of service by mail or upon a statutory agent."); Rule 263(b), SCACR ("The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rules 203 and 243 [of the South Carolina Appellate Court Rules may be extended . . . ."); *Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985) (explaining the notice of

appeal is a jurisdictional requirement, and the appellate courts have no authority to extend the time in which the notice of intent to appeal must be served). The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.



J.

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FOR THE COURT

Columbia, South Carolina

**FILED**  
**Mar 31 2026**

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cc:

Gale Lyons

Robert Canna Blain, Esquire

JeBria Wilson, Esquire