

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Jennifer B. McCoy, Circuit Court Judge

Case No. 2025-CP-10-01435
Appellate Case No. 2026-000293

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SC Court of Appeals

A Site on Rivers, LLC, and Shelly Leeke Law Firm, LLC,

Appellants,

v.

Mashburn Construction Company, Inc.; Plumbing Authority, LLC; Designbuild Mechanical Corporation; Lowcountry Doors & Hardware, Inc.; Collins & Wright, Inc.; Exterior Solutions of Georgia, LLC d/b/a Bone Dry Roofing; B & C Utilities, Inc.; B&C Development, Inc.; Palmetto State Glass, Inc.; Capital Dry Wall, LLC; Air Diagnostics, Inc.; and Thermatech Services, LLC, Defendants,

Of which Mashburn Construction Company, Inc. is the Respondent,

AND

Lowcountry Doors & Hardware, Inc., Third-Party Plaintiff,

v.

Global Installation Contracting of Charleston, LLC d/b/a Global Installation Contracting, LLC, Third-Party Defendant.

Appellants' Reply to Return for Motion to Amend Notice of Appeal

Respondent Mashburn Construction Company, Inc. requests this Court to deny Appellants' Motion to Amend Notice of Appeal and to dismiss the appeal, and any subsequently filed notices of appeal, in their entirety. Respondent's Return is without merit for four independent reasons. First, Respondent argues the Appellant failed to include the proper filing fee. However, as evidenced in the correspondence dated April 10, 2026, the correct filing fee was sent to the Court. Therefore, Respondent's fee argument is factually wrong. Second, Respondent incorporates wholesale the arguments from its March 16, 2026, Return opposing the transcript motion, arguments this Court already considered and rejected when it granted Appellants' Motion for Permission to Order the Transcript Out of Time on April 6, 2026. Third, the procedural complexity underlying this appeal was created by Respondent's own legally incorrect position that a January 9, 2026, ruling disposed of a motion not filed until January 19, 2026, a position that left Appellants with no choice but to file a protective Notice of Appeal while disclosing exactly why they were doing so. Fourth, the April 10, 2026, Notice of Appeal is an independent, timely filing within thirty days of the March 11, 2026, final order, and Respondent provides no authority to support prospective dismissal of a notice of appeal that is not the subject of this motion.

I. THE FILING FEE WAS SUBMITTED WITH THE MOTION

Respondent relies on the Court's April 13, 2026, deficiency letter (Respondent's Exhibit C) as proof of a continuing failure by Appellants to submit required fees. However, Respondent failed to recognize the Court's April 14, 2026, filing which provides proof that Appellants mailed the filing fee on April 10, 2026, the date the motion was filed. (**Exhibit A**). The April 13 letter identified a deficiency; it did not confirm that the fee remained unpaid as of the date of Respondent's Return. The required \$50.00 filing fee was submitted contemporaneously with the filing of the Motion to Amend, and the Court of Appeals has been notified of this.

The April 13, 2026, deficiency letter was issued in error. The \$50.00 filing fee had already been mailed to the Court on April 10, 2026, the same date the Motion to Amend was filed. The sole error was a typographical mistake in Appellants' email correspondence to the Court, which incorrectly states that a "\$250.00 filing fee check" was being mailed. The correct amount of \$50.00 was mailed to the Court as seen in Exhibit A. Respondent's characterization of "continued disregard" of the appellate rules rests entirely on a deficiency letter that was issued due to a clerical error in the email correspondence and cannot support dismissal of the appeal.

II. THE COURT HAS ALREADY CONSIDERED AND DENIED RESPONDENT'S NONCOMPLIANCE ARGUMENT.

Respondent opens its Return by incorporating wholesale the arguments from its March 16, 2026, Return to Appellants' Motion for Extension of Time to Order Transcript. Those arguments were squarely before the Court when it ruled on the transcript motion. On April 6, 2026, the Court of Appeals granted Appellants' Motion for Permission to Order the Transcript Out of Time. That order resolved the transcript issue on the merits after full briefing by both parties, including Respondent's Return and Appellants' Reply. Respondent's attempt to revive those same arguments here, incorporated by reference as though this Court had not already weighed them, is improper. The Court's April 6 ruling reflects a determination that Appellants' conduct did not warrant dismissal. Respondent cannot use its Return to the present motion as a vehicle to relitigate a motion it has already lost.

III. RESPONDENT'S OWN LEGAL POSITION CREATED THE PROCEDURAL COMPLEXITY IT NOW COMPLAINS OF.

Respondent argues that Appellants manufactured procedural uncertainty through unnecessary filings and cannot now use that uncertainty as a basis for relief. The record does not support Respondent's characterization of the matter. It was Respondent's own legal position, asserted to Appellants before the February 9, 2026, filing, that the January 9, 2026, Form 4 denial

of the first Motion to Alter or Amend encompassed both post-order motions, including the second Motion to Alter or Amend that remained pending and had not yet been ruled upon. Appellants disagreed with that position, but Respondent pressed it. Faced with Respondent's insistence that the appeal clock had already run, Appellants had two choices: accept Respondent's interpretation and risk losing their appellate rights entirely or file a protective Notice of Appeal while the second motion remained pending. They chose the latter, as they were entitled to do, and they expressly disclosed that reason in a footnote to the February 9 filing. The "confusion" Respondent complains of is confusion Respondent created.

Respondent's position was wrong as a matter of law, and Respondent now seeks to benefit from the procedural consequences of that error. The January 9, 2026, Form 4 denied the first Motion to Alter or Amend, the one directed at the December 11, 2025, Form 4 Order. It said nothing about the second Motion to Alter or Amend, which was not filed until January 19, 2026, ten days after the Written Order was entered on January 8. A ruling entered on January 9 cannot have denied a motion not filed until January 19. Respondent's assertion to the contrary was not a good-faith reading of the procedural record; it was a litigation position designed to short-circuit Appellants' appeal. Having taken that position, Respondent is not now in a position to argue that the resulting protective filing was improper.

The law confirms that the successive filings were proper. Under Rule 203(b)(1), SCACR, and *Cheap-O's Truck Stop, Inc. v. Cloyd*, 350 S.C. 596 (Ct. App. 2002), the December 11, 2025, Form 4, which expressly directed that a formal order was to follow, was not a final judgment for appeal purposes. The Written Order entered January 8, 2026, was Appellants' Motion to Alter or Amend the Written Order, filed January 19, 2026, was timely under Rule 59, SCRCR, and addressed a substantive, full-length order that Respondent itself had drafted and submitted. Filing

that motion was not duplicative or unnecessary. It was the correct procedural step. The two motions addressed two distinct orders entered on different dates; no rule required Appellants to treat the denial of the first as disposing of a motion that did not yet exist. Respondent's contrary position was legally wrong. The protective Notice of Appeal that followed was a direct and disclosed consequence of that wrong position. The procedural complexity in this matter arose from Respondent's position regarding the scope of the January 9 ruling. It was not manufactured by Appellants.

IV. THE APRIL 10, 2026, NOTICE OF APPEAL IS INDEPENDENTLY TIMELY AND CANNOT BE DISMISSED.

Respondent requests that this Court dismiss not only the original February 9, 2026, Notice of Appeal but also "any subsequently filed Notice of Appeals on the same subject matter." There is no procedural or legal basis for this request. Appellants filed a new Notice of Appeal on April 10, 2026, appealing all four orders: the December 11, 2025, Form 4 Order; the January 8, 2026, Written Order; the January 9, 2026, Form 4 denial of the first Motion to Alter or Amend; and the March 11, 2026, denial of the second Motion to Alter or Amend. Under Rule 203(b)(1), SCACR, the time to appeal ran from Appellants' receipt of written notice of the order denying the second Motion to Alter or Amend -- March 11, 2026. The April 10, 2026, Notice of Appeal was filed within thirty days of March 11, 2026, and is timely on its face. The Court of Appeals received it on April 10, 2026.

Respondent provides no authority for the proposition that a Court of Appeals may prospectively dismiss notices of appeal that have not yet been challenged on their merits. The April 10 Notice of Appeal stands independently and is not before this Court on the present motion.

CONCLUSION

For the foregoing reasons, Appellants respectfully request that this Court grant their Motion to Amend Notice of Appeal.

Respectfully submitted,

s/ Amanda M. Blundy

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April 20, 2026