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APR 23 2026

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Honorable Judge George M. McFaddin, Jr., Circuit Court Judge
Honorable Judge Jennifer B. McCoy, Circuit Court Judge

Appellate Case No. 2026-000201

Cheryl Carter, Pro Se..... Appellant,

v.

McElveen Buick GMC, Inc. Respondent.

**APPELLANT'S COMBINED RESPONSE IN OPPOSITION TO
RESPONDENT'S MOTION FOR RECONSIDERATION AND
MOTION TO DISMISS FOR FRIVOLOUS APPEAL**

INTRODUCTION

Appellant Cheryl Carter, proceeding pro se, respectfully submits this combined response in opposition to Respondent McElveen Buick-GMC, Inc.'s Motion for Reconsideration of this Court's March 30, 2026 Order and Respondent's Motion to Dismiss for Frivolous Appeal. Both motions should be denied.

Respondent asks this Court to dismiss this appeal before a single brief has been filed. An appeal arising from a one-sentence dismissal order that identifies no law, addresses no claim, and was entered the same day as a hearing at which Appellant was prevented from being heard by technical failures of the court's own system. Respondent's own exhibits, attached to its Motion to Dismiss, expose the very deficiencies that make this appeal not only necessary but meritorious.

The Court's March 30, 2026 Order was correctly decided and should stand. Appellant had already ordered the transcripts before that Order was entered, after experiencing a documented surgical procedure and recovery period that constituted good cause and excusable neglect. Respondent has submitted nothing to refute these facts.

This appeal is not frivolous. It presents substantial, documented questions of law and fact including whether Appellant received constitutionally and procedurally adequate notice of the judgment against her; whether the dismissal order satisfies the requirements of Rule 12(b)(6), SCRCF; whether the lower court's written findings are reconcilable with what the transcript of the proceedings actually shows; and whether the court below was misled by misrepresentations of governing statutory law. Appellant will address all of these questions fully in her Brief, including through the presentation of a written admission from McElveen Buick-GMC's own General Manager that directly establishes the statutory violation at the heart of her claims, the transcripts of all four hearings held below, and additional documentary evidence from the court's own record that demonstrates a consistent pattern of procedural failures that fell entirely on Appellant at every stage of these proceedings.

ARGUMENT

I. THE COURT SHOULD DENY RESPONDENT'S MOTION FOR RECONSIDERATION.

A. Reconsideration Is Not a Vehicle to Relitigate a Settled Ruling.

Reconsideration is an extraordinary remedy reserved for situations involving an intervening change in controlling law, newly discovered evidence, or a clear error of law or manifest injustice. Respondent identifies none of these. It simply reasserts the same procedural

arguments this Court already considered and rejected in its March 30, 2026 Order. That is not a proper basis for reconsideration, and the motion should be denied on that basis alone.

B. Appellant Demonstrated Documented Good Cause — Surgery and Recovery.

Respondent's central claim is that Appellant showed no cognizable good cause for her delay is flatly contradicted by the record. Appellant submitted medical records to this Court documenting that she underwent a necessary surgical procedure and required a period of recovery that directly prevented her from meeting the transcript ordering deadline. This Court reviewed that documentation and found it sufficient. Respondent has offered no medical evidence, no competing documentation, and no legal authority establishing that surgery and documented recovery do not constitute excusable neglect. The argument fails.

Equally important: Appellant ordered the transcripts before the March 30, 2026 Order was even entered. This Court's Order expressly noted that documentation on file confirmed the transcripts had been ordered. Whatever procedural delay occurred was cured before the Court ruled. There is nothing left to remedy and no basis to reconsider.

C. The Record Demonstrates a Pattern of Notice Failures — None Caused by Appellant.

Respondent has made Appellant's timeliness a recurring theme throughout this litigation. But every timeliness argument Respondent presses are built on a false premise that Appellant received proper notice of the proceedings and rulings in this case. She did not. The record establishes a consistent, documented pattern of notice failures but none attributable to Appellant that directly caused every delay Respondent now attempts to lay at her feet.

Rule 77(d), SCRCF, requires that notice of entry of judgment be mailed to parties who are not participating in the Electronic Filing System and who are appearing pro se. The Appellant is a

pro se litigant and a non-e-filer. She did not elect email service. The transcript of the November 10, 2025 hearing before Judge McCoy proves this directly: Appellant stated on the record that she never agreed to receive communications by email only. (Tr. 11/10/25, p. 10.) The Clerk of Court confirmed that the email notification was autogenerated by a system called Court08, not selected by Appellant. (Tr. 11/10/25, pp. 9-10.) Judge McCoy acknowledged this on the record and updated Appellant's preference to mail going forward. (Tr. 11/10/25, p. 11.)

The April 22, 2025 judgment was never mailed to Appellant. The November 19, 2025 Order was never mailed to Appellant, forcing her to physically travel to the Berkeley County Court of Common Pleas on December 31, 2025 to retrieve a copy herself. And as set forth below, an Order of Protection filed in this case on August 11, 2025, one day before a scheduled hearing was never served on Appellant in violation of Rule 5, SCRCP, causing her to lose time from work to appear at a hearing that could not proceed.

Not one of these failures was caused by Appellant. Every single one was caused by the court system's failure to mail required notices or by opposing counsel's failure to serve filings on the opposing party. The party in this case with a documented pattern of procedural failures is not Cheryl Carter, the Appellant.

D. The November 19, 2025 Written Order Was Drafted by Opposing Counsel and Contradicts the Transcript.

This point warrants the Court's careful attention. Respondent's own Exhibit B, the November 10, 2025 Form 4 Order expressly states that Judge McCoy directed defense counsel, Victoria W. Kurtz, to draft a formal proposed order within ten days. The November 19, 2025 written Order, Exhibit C is that proposed order. It was drafted by Respondent's counsel and submitted to Judge McCoy for signature.

The significance of this cannot be overstated. Opposing counsel, the attorney for McElveen Buick-GMC, drafted an order that contains the following finding: that Appellant acknowledged electing email service, thereby defeating Appellant's notice argument entirely. But the transcript of the November 10, 2025 hearing directly contradicts that finding. Appellant stated she never agreed to email-only notice. The Clerk confirmed the email was autogenerated by Court08. Judge McCoy heard both statements and updated the record to reflect mailed service going forward.

Yet the order that Respondent's counsel drafted and that Judge McCoy signed states the opposite. A written order drafted by opposing counsel that contradicts the transcript of the hearing it purports to memorialize, on the precise factual issue that determines the outcome of Appellant's notice argument, is not a reliable memorialization of judicial findings. It is a document prepared by an interested party that conflicts with the objective record. The transcript is the record. The transcript controls. And the fact that this Order was never mailed to Appellant, forcing her to retrieve it herself from the courthouse on December 31, 2025 meant she had no timely opportunity to identify the contradiction and bring it to the court's attention.

This Court must be permitted to review the transcript alongside the November 19, 2025 Order and resolve this conflict. That is precisely what appellate review is for.

E. The Complete Procedural Timeline Demonstrates That Every Delay Was Caused by Others.

Respondent accuses Appellant of creating a pattern of tardiness and noncompliance. The documented record tells a fundamentally different story. Appellant filed her Motion for Relief from Judgment on June 10, 2025. It was not heard and decided until November 10, 2025 — five full months later. Every day of that delay was caused by events entirely outside Appellant's control:

July 14, 2025 — Judge Goodstein's Undisclosed Conflicts. The Honorable Diane Schafer Goodstein was assigned to hear Appellant's motion. At the hearing, after greetings and without hearing from either party, Judge Goodstein immediately disclosed sua sponte that she personally buys her vehicles from McElveen's, that she had a personal acquaintance relationship with the owner Doug McElveen and his family, and that her former law firm had previously represented McElveen's. Judge Goodstein stated on the record: 'I think I just talked myself out of hearing this case.' (Tr. 7/14/25, p. 3.) She continued the matter via Form 4 without hearing argument from either side. All three of these conflicts — a current financial relationship with the defendant, a personal acquaintance relationship with the defendant's owner, and a prior professional legal representation of the defendant were known to Judge Goodstein before the July 14 hearing was ever scheduled. Her obligation under Rule 2.11 of the South Carolina Code of Judicial Conduct was to proactively identify and disclose these conflicts before the hearing was scheduled, not after both parties had appeared. Her failure to do so caused Appellant to prepare for and appear at a hearing that was immediately terminated, adding unnecessary delay to a motion Appellant had properly filed.

August 12, 2025 — Opposing Counsel's Order of Protection — Never Served on Appellant. Following Judge Goodstein's recusal, the matter was assigned to the Honorable Charles J. McCutchen for an August 12, 2025 hearing. Appellant took time off work and appeared at the courthouse. Only upon the commencement of the hearing did Appellant learn, for the first time, that Respondent's counsel had obtained an Order of Protection from all court appearances from August 5 through September 5, 2025, citing the loss of both her mother and her husband. That Order of Protection was electronically filed in this case (Case No. 2025CP0800615) on August 11, 2025, one day before the hearing. The Order was signed by the Honorable Jennifer B. McCoy on

August 10, 2025. Appellant was never served with this filing in violation of Rule 5, SCRCP, which requires that every filing in a pending case be served on all parties. As a pro se non-e-filer, Appellant was entitled to receive a mailed copy. She never received it. The presiding judge acknowledged on the record that he did not know why Appellant had not been informed. The hearing could not proceed. No Form 4 was entered memorializing what occurred, meaning there is no official court record of the August 12 proceeding beyond the Order of Protection itself and whatever transcript exists of that hearing, which Appellant has ordered and will present in her Brief. Appellant lost a day of work as a direct result of opposing counsel's failure to serve her with a filing in her own active case.

November 10, 2025 — Motion Finally Heard — But Denial Based on Order Contradicted by Transcript. The motion was finally heard by Judge McCoy on November 10, 2025, five months after it was filed. The motion was denied. Judge McCoy directed opposing counsel to draft the formal order. As set forth above, the order opposing counsel drafted contradicts the transcript on the critical notice finding. And that order was never mailed to Appellant, requiring her to physically retrieve it from the courthouse on December 31, 2025.

That is the actual record. Every delay in July, August, and the aftermath of November was caused by Judge Goodstein's failure to proactively recuse, opposing counsel's failure to serve Appellant with the Order of Protection, and opposing counsel's drafting of an order that contradicts the transcript. Respondent cannot point to a single day of delay in this entire five-month period that was caused by Appellant. Yet Respondent stands before this Court accusing Appellant of a pattern of tardiness. The Court should reject that characterization entirely as it is contradicted by the documented record.

Furthermore, it bears noting that the same Judge McCoy who signed the Order of Protection for opposing counsel on August 10, 2025, thereby facilitating the notice failure at the August 12 hearing, later presided over and denied Appellant's motion on November 10, 2025, and directed opposing counsel to draft the order that contradicts the transcript. While judicial involvement in administrative matters is not itself improper, the cumulative picture of this case in which every procedural failure falls on the same party, at every stage, throughout the entirety of the proceedings, is one this Court should examine carefully.

F. Respondent's Finality Argument Is Misplaced.

Respondent invokes finality and orderly process to argue that Appellant's corrective steps should be disregarded. But finality principles apply to final judgments on the merits, not to interlocutory administrative orders managing an active appeal. The Court's March 30 Order is a case management ruling. Allowing Appellant to proceed does not undermine finality; it allows the actual final judgment below, one that raises serious legal questions, to receive the appellate review it deserves.

G. Pro Se Litigants Who Act in Good Faith Should Not Face Dismissal as a First Resort.

Respondent argues there should be no separate standard for pro se parties. Appellant does not dispute that the rules apply to all litigants. But courts throughout South Carolina recognize that dismissal with prejudice is a sanction of last resort, particularly for a pro se litigant who has demonstrated good faith, provided documented medical cause, and fully corrected the procedural deficiency before the Court ruled. Respondent seeks the maximum available sanction for a corrected, medically documented delay in a case where the documented pattern of procedural

noncompliance belongs to the other side. That is not proportionate, and this Court should decline to impose it.

II. THE COURT SHOULD DENY RESPONDENT'S MOTION TO DISMISS FOR FRIVOLOUS APPEAL.

A. Respondent's Own Exhibits Demonstrate This Appeal Has Substantial Merit.

In a remarkable irony, the exhibits Respondent attached to its Motion to Dismiss offered to show the appeal is baseless, instead reveal the precise reasons this Court must hear it.

Exhibit A — The April 22, 2025 Dismissal Order. The order that ended the Appellant's case consists of a single sentence on a Form 4: 'Upon review of the file and existing law, I grant Defendant's SCRCP 12(b)(6) Motion and respectfully dismiss Plaintiff's complaint.' That is the entirety of the legal analysis. No law is cited. No statute, no case, no rule. No claim made by Appellant is identified, let alone addressed. No explanation is given for why her allegations, accepted as true, failed to state a claim on any theory. Critically, a Form 4 is a ministerial administrative form used to record a disposition; it is not a formal judicial order. No signed written order by Judge McFaddin was ever filed or entered on the record. A Rule 12(b)(6) dismissal that identifies no legal basis and that is not memorialized in a proper signed order cannot be affirmed on appeal.

Exhibit B — The November 10, 2025 Form 4 Order. This order denied Appellant's Motion for Relief from Judgment and directed defense counsel to draft a formal proposed order within ten days. As established above, the order defense counsel drafted contradicts the transcript of the hearing it purports to memorialize on the precise factual finding that determined the outcome against Appellant.

Exhibit C — The November 19, 2025 Written Order. This order states that Appellant acknowledged electing email service, a finding directly contradicted by the transcript of the November 10, 2025 hearing. The order was drafted by Respondent's own counsel. The transcript is the record. The transcript controls.

B. Appellant Was Denied Her Right to Be Heard at the April 22, 2025 Hearing.

Due process requires, at minimum, the right to be heard. At the April 14, 2025 hearing before Judge McFaddin, Appellant experienced technical difficulties that prevented the court from hearing her from the outset. (Tr. 4/14/25, p. 3.) The Court acknowledged the problem, provided a phone number, and attempted to work around the issue, but audio difficulties persisted throughout, with the Court noting 'a tremendous amount of echoing.' (Tr. 4/14/25, p. 4.) Despite these unresolved technical failures, the Court proceeded with and concluded the hearing. Appellant's ability to present her arguments was severely curtailed as a direct result. The case was dismissed eight days later.

At that hearing, Appellant was in possession of a written communication from McElveen Buick-GMC's own General Manager, Todd Smith, admitting that the dealership charges the closing fee to every customer regardless of whether they are financing, paying cash, or otherwise, with no analysis of actual costs incurred. This is a direct written admission that the fee bears no relation to actual closing costs, the precise violation alleged in Appellant's complaint and the precise standard established by the South Carolina Supreme Court in *Freeman v. J.L.H. Investments, L.P., a/k/a Hendrick Honda of Easley*, 414 S.C. 362, 778 S.E.2d 902 (S.C. 2015). Appellant was prepared to present this evidence. The technical failure of the court's own system prevented her from doing so. The case was dismissed the same day.

Appellant intends to present the General Manager's written admission in her Brief as part of the full factual and legal record before this Court. It is identified here not as an exhibit to this motion, but to demonstrate to this Court that this appeal is supported by direct, documented evidence of the statutory violation alleged, and evidence that was never heard by the court below through no fault of Appellant's own.

C. The Dismissal Order Is Legally Insufficient on Its Face.

Appellant brought two distinct statutory claims: a violation of the South Carolina Regulation of Manufacturers, Distributors and Dealers Act, S.C. Code Ann. § 56-15-30 (the 'Dealers Act'), and a violation of the Motor Vehicle Sales Contract Closing Fee statute, S.C. Code Ann. § 37-2-307. These are separate causes of action with different elements, different standards, and different available remedies. Rule 12(b)(6), SCRPC requires the court to assess each claim independently, accept all factual allegations as true, and determine whether any theory of recovery is cognizable. Judge McFaddin dismissed both claims simultaneously in a single sentence, citing 'existing law' without identifying what law, without addressing either claim, and without explaining why Appellant's factual allegations failed under any theory. That is not a Rule 12(b)(6) analysis, it is a conclusion without reasoning, and it is not amenable to meaningful appellate review.

**D. The Lower Court Was Apparently Misled by Misrepresentations of Governing
Statutory Law.**

In the lower court proceedings, Respondent's counsel argued that amendments to S.C. Code Ann. § 37-2-307 eliminated the requirement that the closing fee be included in the advertised price

of the vehicle. This argument is demonstrably false and is directly contradicted by the plain text of the statute, both as it existed at the time of Appellant's 2022 transaction and as it exists today.

Appellant's vehicle was purchased on July 26, 2022. The law governing that transaction is the version of § 37-2-307 in effect at that time, the 2016 amended version, which expressly required the closing fee to be included in the advertised price of the motor vehicle, disclosed on the sales contract, and displayed conspicuously in the dealership. Statutes do not apply retroactively to transactions that occurred before their enactment absent express legislative direction. No such direction exists here.

Moreover, even if the 2023 amendment applied, which it does not, it did not eliminate the advertised price requirement. The 2023 Act No. 45 (H.3952), effective May 16, 2023, amended § 37-2-307 specifically to require the closing fee to be prominently displayed 'with the advertised price' and to require that the fee be reasonable and calculated based on the dealer's actual costs using generally accepted cost accounting principles. The 2023 amendment codified the actual-cost reasoning of *Freeman v. J.L.H. Investments*, it did not overrule it. A case whose holding is written into the statute by the legislature is not outdated, it is authoritative.

Respondent has not specified in this motion to this Court exactly which statute she claims is outdated or precisely how. That vagueness is telling. A frivolous appeal motion requires a clear showing that no colorable legal position exists. Unspecified references to unnamed statutory changes do not meet that standard, particularly when the statute as enacted, as amended in 2016, as further amended in 2023, and as it stands today all require actual-cost justification for closing fees and preserve the consumer's right to seek remedies for violations.

E. The Facts Alleged State Clear Statutory Violations Under Both Claims.

The facts Appellant's complaint alleged, which must be accepted as true at the Rule 12(b)(6) stage are straightforward and powerful. McElveen Buick-GMC charged Appellant a \$489 closing fee. Appellant did not apply for financing through McElveen, instead she arrived with a check from South Carolina Federal Credit Union. She purchased no service contract, no GAP insurance, and no dealer add-ons. McElveen therefore incurred no lender compliance costs, no loan documentation costs, and no financing-related administrative work in connection with Appellant's transaction. Its actual closing costs attributable to this sale were, at most, minimal, yet it charged \$489, an amount exceeding the \$225 threshold above which the SC Department of Consumer Affairs must review closing fees for reasonableness.

While McElveen did file with the SCDCA, registration does not authorize when to charge the fee. The statute's definition limits the fee to recovery of actual costs incurred, but the SCDCA does not determine or authorize the circumstances under which a fee may be imposed on any particular customer. A fee charged to a cash buyer with no dealer-arranged financing, no add-ons, and no meaningful closing work performed is not a recovery of actual costs. It is an arbitrary profit charge which is precisely what the Dealers Act prohibits and what *Freeman* condemned. The General Manager's own written admission that the fee is charged universally to all customers regardless of transaction type confirms this directly.

Compounding this violation, McElveen also charged Appellant a separate \$65 fee identified as a 'Admin Fee and License.' This charge is improper on two independent grounds. First, administrative costs are expressly subsumed within the statutory definition of the closing fee itself. By charging both a \$489 closing fee and a separate \$65 administrative fee constitutes double-charging for the same category of costs. Second, Appellant transferred her existing tags to the

newly purchased vehicle. No new tags were issued. No tag-related fees were incurred by McElveen. Charging \$65 for a service that was never rendered is not a recovery of actual costs. It is an arbitrary charge for nothing.

The total improper fees charged to Appellant were \$554: \$489 in closing fees on a cash transaction with no actual closing costs, and \$65 for administrative work already covered by the closing fee definition and tags that were never issued. These allegations, accepted as true, state clear violations of both § 37-2-307 and the Dealers Act. Dismissing them at the Rule 12(b)(6) stage in one sentence, citing no law, after a hearing where Appellant could not be heard, was reversible error.

F. The Appeal Cannot Be Frivolous When It Has Not Yet Been Briefed.

An appeal is frivolous only when it presents no reasonably arguable basis in fact or law. As set forth above, this appeal presents at minimum the following substantial issues: (1) a dismissal order that identifies no law and addresses no claim, entered after a hearing where Appellant could not be heard due to technical failures; (2) a written order whose factual findings are contradicted by the transcript of the very proceeding it purports to memorialize, drafted by opposing counsel; (3) a due process and Rule 77(d) notice question affecting every timeliness argument in the case; (4) a five-month delay in adjudicating Appellant's relief motion caused entirely by a judge's undisclosed conflicts and opposing counsel's failure to serve a filing on Appellant; (5) misrepresentations of governing statutory law in the lower court; and (6) direct written evidence from the defendant's own General Manager establishing the statutory violation alleged. Respondent has addressed none of these issues on the merits. The appeal is the opposite of frivolous.

G. 28 U.S.C. § 1915 Does Not Apply to This State Court Proceeding.

Respondent invokes 28 U.S.C. § 1915(e)(2)(B)(i) as authority to dismiss a frivolous appeal at any stage. That federal statute governs in forma pauperis proceedings in federal courts. It has no application to this appeal, which proceeds in the South Carolina Court of Appeals under the South Carolina Appellate Court Rules. Respondent cites no South Carolina authority authorizing pre-briefing dismissal of a state court appeal as frivolous on this basis. The motion lacks a valid legal foundation.

H. The Sanctions Threat Is Premature, Legally Unsupported, and Appears Designed to Intimidate.

Respondent's preservation of a sanctions motion, including attorney's fees and costs is premature. No briefing has occurred. The merits of the appeal have not been presented to or considered by this Court. Rule 269, SCACR, authorizes sanctions only upon a showing that an appeal was pursued in bad faith after full consideration of the merits. There is no such showing here.

Given the substantive issues identified in this response, a dismissal order with no legal reasoning entered after a hearing where Appellant could not be heard; a written order drafted by opposing counsel contradicting the transcript; two instances of improper notice to a pro se non-e-filer; an Order of Protection never served on Appellant causing a wasted hearing appearance; a judicial recusal due to three undisclosed conflicts with the defendant; a \$554 total in fees charged with no actual costs incurred; and a General Manager's written admission of a blanket fee policy, there could not be a bad faith finding. The sanctions threat at this early stage, before a single appellate brief has been filed, appears designed to pressure a pro se appellant into abandoning a meritorious appeal. This Court should reject that tactic entirely.

CONCLUSION

Respondent has filed two motions aimed at a single outcome: ending this appeal before Cheryl Carter can be heard. But the record, including Respondent's own exhibits and the court's own filed documents, demonstrates that the Appellant, Cheryl Carter has not been fully heard at any stage of this litigation. She was dismissed by a one-sentence form notation citing no law, entered the same day as a hearing at which technical difficulties prevented her from speaking. She was denied relief by a written order, drafted by opposing counsel, that contradicts the transcript of the hearing it memorializes. She was never properly mailed notice of either the April 22 judgment or the November 19 Order. She appeared at the August 12 hearing having taken time off work, only to learn for the first time that an Order of Protection had been filed in her case the day before. A filing she was never served with in violation of Rule 5. She waited five months for a ruling on her relief motion through delays caused entirely by a judge's undisclosed conflicts with the defendant and opposing counsel's failure to serve her with a court filing. And she had to physically travel to the courthouse to retrieve an order that should have been mailed to her.

The transcripts Appellant has ordered, all four hearings, will demonstrate precisely why this appeal must proceed. They will show that Appellant could not be heard at her dismissal hearing. They will show that the notice findings in the November 19 Order are contradicted by what was said on the record. They will capture a judge disclosing three independent conflicts with the defendant that should have been disclosed before the hearing was ever scheduled. And they will show, in a judge's own words, that Appellant was not notified of a filing in her own case and that the court itself did not know why.

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

1. Deny Respondent's Motion for Reconsideration of the Court's March 30, 2026 Order;

2. Deny Respondent's Motion to Dismiss for Frivolous Appeal;
3. Deny Respondent's preserved motion for sanctions as premature and without legal merit;
and
4. Allow this appeal to proceed to full briefing on the merits so that this Court may review the complete record, including all four hearing transcripts and the documentary evidence of the violations alleged, and the substantial legal, factual, and constitutional questions they present.

Respectfully submitted,



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Dated: April 17, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2026, a true and correct copy of the foregoing **Appellant's Combined Response in Opposition to Respondent's Motion for Reconsideration and Motion to Dismiss for Frivolous Appeal** was served upon Respondent's counsel of record via first-class mail and email as follows:

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