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May 08 2026

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,

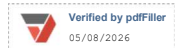
v.

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,

**PETITION FOR REHEARING**

Appellant **Gale Lyons** respectfully petitions this Court for rehearing pursuant to Rule 221, SCACR. Rehearing is warranted because the Court’s March 31, 2026 dismissal order—and the Court’s April 23, 2026 letter stating that *remittitur will run fifteen days from the date of the*

*letter*—rests on a determination that the Notice of Appeal was untimely under **Rule 203(b)(1), SCACR**, without accounting for the extraordinary circumstances that prevented timely service and Appellant’s continuous diligence in pursuing appellate review. As detailed in the accompanying memorandum, this is precisely the type of case in which **equitable tolling** must be applied to prevent an unjust forfeiture of appellate rights and to ensure that the appeal is heard on its merits. The grounds supporting this petition are outlined in the accompanying and previous memorandums, which is filed contemporaneously and incorporated herein by reference. This petition is based on the Court’s March 31, 2026, Order dismissing the appeal.



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Gale Lyons  
1969 Golfair Rd  
Sumter, SC 29154  
803-565-9158

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**MEMORANDUM IN SUPPORT OF PETITION FOR REHEARING**

The Appellant, Gale Lyons, petitions the South Carolina Court of Appeals for a rehearing of the Court’s April 23 letter emphasizing the March 23 Order dismissing this appeal on grounds that the service of the Notice of Appeal to Respondents was untimely. Appellant submits this

abbreviated and urgent memorandum in support of rehearing under Rule 221, SCACR. The Court's dismissal order overlooked critical facts, failed to address Appellant's equitable-tolling request, and misapplied controlling law. The Appellant respectfully submits that the following elements were overlooked or misapprehended by this Court.

### **I. Respondent's One-Day Argument Ignores the Real Issue: Equitable Tolling**

Respondent argues Appellant's Notice of Appeal was one day late. Appellant does not dispute the date. What she disputes—and what the Court failed to address—is that **equitable tolling applies**. Appellant explained that the **sudden death of her mother**, severe grief, psychiatric intervention, and holiday-period emotional instability **directly impaired her ability to file sooner**. She needed time to stabilize after a traumatic loss and is still healing.

The Court's order *did not address* these facts or Appellant's tolling request. South Carolina law recognizes tolling in exactly these circumstances.

### **II. Appellant's Motions in the Circuit Court Were Never Scheduled—Demonstrating Systemic Procedural Unfairness**

Appellant filed **multiple motions** in the Circuit Court—including a **Motion for Reconsideration filed before the Form 4 dismissal**—yet not a single motion was ever scheduled for a hearing or ruled upon in her favor.

While Appellant was providing **full-time care** to her late mother, she did not have money to waste on repeated filing fees or time to waste filing a second Motion for Reconsideration when the record already showed the Circuit Court had acted with **prejudice on several occasions**, as detailed in her original Motion for Reconsideration.

The Circuit Court’s failure to schedule or hear any of Appellant’s motions underscores the procedural inequity she faced. It is fundamentally unjust to penalize Appellant for a **one-day delay** when the lower court repeatedly denied her any meaningful opportunity to be heard.

### **III. South Carolina Law Requires Tolling Here**

Under *Mose v. South Carolina*, a filing is timely when the litigant acted reasonably and external forces caused the delay. *Rink and Ross* likewise hold that tolling applies when confusion, hardship, or circumstances beyond the litigant’s control prevent timely filing. Appellant’s circumstances are not borderline—they are the exact scenario equitable tolling was designed for.

### **IV. Extraordinary Circumstances: Appellant’s Mother Died in Her Care**

On October 17, 2025, Appellant’s mother, **Ada B. Wright**, died unexpectedly in Appellant’s home. Appellant was her **full-time caregiver**. That morning, Appellant took her mother’s vitals, flushed the PEG tube, administered medications, and changed feeding and water bags. Minutes later, she rechecked the vitals and found her mother’s heart rate and oxygen levels collapsing. She called 911 and requested a BiPAP. Before EMS arrived, her mother had no pulse.

Afterwards, Petitioner was tasked with planning her mother’s funeral, supporting her siblings and the grandchildren. She was forced to be the emotional anchor for her family while experiencing profound grief herself.

This traumatic event—compounded by my maternal uncle’s (John Johnson) funeral the next day and assisting with healthcare decisions for her maternal uncle in a nursing facility in Columbia —triggered severe grief, impaired concentration, and psychiatric treatment. These

conditions **directly affected her ability to meet legal deadlines**. Appellant was mentally impaired and emotionally unable to notify the circuit court of her mother's death, especially under the circumstance where her previous motions were never scheduled or heard.

#### **V. Rule 263, SCACR: Appellant's Time Calculation Was Reasonable**

The amended order arrived late on November 29, 2025, after holiday-related USPS delays. Under **Rule 263, SCACR**, the day of service is excluded. Thus, **November 30** was Day 1. Appellant reasonably calculated **December 30** as Day 30 and filed in good faith. Her calculation was not reckless—it was logical.

#### **VI. Impaired Functioning Explains the Rule 6 Error**

Appellant mistakenly relied on **Rule 6, SCRCF**, not out of neglect, but because acute paralyzing grief, psychiatric distress, and impaired concentration made it difficult to parse multiple procedural rules. Due to the death of the Appellant's mother, her misinterpretation was a **symptom of trauma**, not carelessness. Appellant had navigated this case throughout her mother's health crisis in intensive care and on breathing machines, but she acted responsibly in reading the rules.

#### **VII. Holiday-Period Grief Intensified Cognitive Disruption**

Appellant's mother died immediately before Thanksgiving and Christmas—periods known to worsen depression and impair functioning for those grieving a parent. This timing further disrupted her ability to manage complex legal obligations.

#### **VIII. The Delay Was One Day—With Zero Prejudice**

Respondent identifies a **single-day delay**. There is no prejudice. Appellant filed as soon as she regained minimal emotional and cognitive stability. The Form 4 Order arrived via USPS after business hours on November 29, 2025, following holiday delivery delays. Therefore, the effective start date for the appeal period should be recognized as November 30, 2025. The final day to serve the notice of appeal would be December 30, 2025, which was the day Respondents were served. An affidavit from the post office will be submitted and/or this statement will be used to preserve the right to submit an affidavit on delivery time.

#### **IX. Appellant's *Pro Se* Status Matters**

Appellant is *pro se* because she exhausted her finances providing full-time care for her mother. She had no legal assistance during a period of acute grief and psychiatric treatment. South Carolina courts routinely grant equitable consideration to *pro se* litigants facing extraordinary hardship.

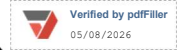
#### **X. Public Policy Demands a Merits-Based Review**

South Carolina courts prefer decisions on the merits, not technical forfeitures. Denying tolling here would punish a grieving caregiver for a one-day delay caused by trauma—an outcome fundamentally at odds with *Mose*, *Rink*, *Ross*, and basic fairness.

#### **CONCLUSION**

Each of the above 10 elements apply here. The Court's order of dismissal failed to consider these elements and failed to recognize extenuating circumstances. For the reasons stated herein and in explained in more detail in the original Memorandum date March 12, 2026, with supporting documents. Appellant respectfully requests that this Court grant this Petition for

Rehearing, accept the appeal timely under equitable tolling and Rule 263, SCACR, allow the appeal to proceed on its merits, and deny the motion to dismiss the appeal.



A handwritten signature in black ink that reads "Gale Lyons". The signature is written in a cursive style with a horizontal line underneath the name.

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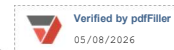
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Respondents,

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the following documents: **Appellant’s Petition for Rehearing and Memorandum in Support of the Petition for Rehearing on Attorneys for the Respondents on May 8, 2026, via email.**

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