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May 15 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
COURT OF COMMON PLEASE

The Honorable Jennifer McCoy, Circuit Court Judge

Case No. 2021-CP-08-00087

Appellate Case No. 2024-002032

Tunc ErenRespondent,

v

AKPA Chemicals US, Inc.....Appellant

**RESPONDENT’S OPPOSITION TO APPELLANT’S MOTION TO REINSTATE
APPEAL**

/s/Tunc Eren

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Attorney for Appellant

Respondent Tunc Eren, appearing pro se, respectfully opposes Appellant's Motion to Reinstate Appeal pursuant to Rule 260(a), SCACR.

I. INTRODUCTION

Appellant asks this Court to vacate its dismissal order by characterizing the Rule 211 violations as a clerical filing mistake. However, the procedural history of this appeal demonstrates repeated noncompliance with appellate rules, repeated notices from the Court, and repeated failures to cure deficiencies after notice and opportunity to correct them.

The Court already determined that "there were numerous and substantial differences between [Appellant's] initial briefs and final briefs" and dismissed the appeal due to Appellant's "failure to conform its final briefs to Rule 211, SCACR, and this Court's letter dated March 31, 2026."

Appellant has not demonstrated sufficient good cause to justify reinstatement.

II. THE COURT ALREADY FOUND SUBSTANTIVE RULE 211 VIOLATIONS

The Court's April 21, 2026 dismissal order expressly states:

"As a panel began to review this case it became apparent the parties had not followed Rule 211, SCACR, and that there were numerous and substantial differences between their initial briefs and final briefs."

The Court further held:

"This appeal is dismissed due to Appellant's failure to conform its final briefs to Rule 211, SCACR, and this Court's letter dated March 31, 2026."

This language is significant.

The dismissal was not based upon a minor formatting defect, typographical correction, or mistaken attachment alone. Rather, the Court independently reviewed the filings, identified substantive noncompliance with Rule 211, issued a deficiency notice, and provided Appellant an opportunity to cure.

Despite that opportunity, Appellant still failed to submit compliant filings.

III. THE FINAL BRIEF REFLECTED EXTENSIVE SUBSTANTIVE REVISIONS

Even accepting Appellant’s assertion that an incorrect draft was mistakenly uploaded, the subsequently filed “corrected” Final Brief still reflects extensive substantive revisions beyond simple conforming edits or typographical corrections.

A comparison between the Initial Brief and the subsequently filed Final Brief demonstrates substantial revisions throughout the factual and argument sections.

Among other changes, the Final Brief:

- materially expanded record citations throughout the factual and argument sections;
- added extensive transcript references not contained in the Initial Brief;
- revised and expanded factual assertions;
- reorganized and restructured arguments;
- expanded legal analysis and supporting authority; and
- materially altered the presentation and development of claims concerning unjust enrichment, conversion, and breach of contract.

For example, the Initial Brief largely relied upon generalized factual assertions and references to exhibits, whereas the Final Brief substantially expanded the briefing through extensive transcript citations, additional factual development, and expanded argument presentation.

Additionally, the “Final Brief of Appellant” filed on April 22, 2026 further demonstrates the substantive nature of the revisions at issue. The filing contains extensive factual expansion, reorganized arguments, expanded legal analysis, and substantial additional record citations beyond the limited conforming corrections contemplated by Rule 211, SCACR. Notably, the filing itself contains inconsistent filing and service dates, further reflecting the irregular procedural history surrounding Appellant’s briefing submissions.

Appellant’s subsequent email correspondence likewise does not alter the procedural posture of this appeal. At most, the correspondence attempts to demonstrate that an alternate draft existed prior to the filing deadline. However, the Court already reviewed the filings, issued a deficiency notice, and ultimately dismissed the appeal after concluding that the differences between the Initial Brief and Final Brief were “numerous and substantial.”

These were not merely typographical corrections or clerical edits. Rather, the revised filings materially altered the substance and presentation of Appellant’s appeal after the Initial Brief had already been submitted.

Accordingly, the record supports the Court’s prior determination that the differences between the Initial Brief and Final Brief were “numerous and substantial,” and reinstatement would therefore be improper.

IV. APPELLANT’S PROCEDURAL HISTORY DEMONSTRATES REPEATED NONCOMPLIANCE

Appellant's present request for equitable reinstatement must be evaluated against the full procedural history of this appeal.

Prior to dismissal under Rule 211, Appellant repeatedly failed to comply with appellate obligations regarding the transcript and briefing schedule.

Appellant ordered the transcript on December 6, 2024, but failed to timely arrange payment despite receiving explicit payment instructions from the court reporter on December 9, 2024. The court reporter specifically advised Appellant that transcript preparation would not begin until payment was received.

Despite multiple notices from the Court regarding transcript deficiencies, payment was not remitted until April 15, 2025, more than four months later.

The Court subsequently issued repeated notices warning Appellant regarding transcript and briefing deficiencies and directing corrective action.

This pattern demonstrates ongoing neglect and repeated procedural noncompliance throughout the appeal process.

V. APPELLANT FAILED TO CURE DEFICIENCIES AFTER NOTICE

The Court provided Appellant notice and an opportunity to cure the Rule 211 deficiencies identified in the March 31, 2026 deficiency letter.

The dismissal order expressly states that dismissal resulted from Appellant's failure to conform its filings both to Rule 211 and to the Court's deficiency notice.

Thus, this case does not involve an isolated clerical oversight. Appellant received notice, was afforded an opportunity to correct the deficiencies, and nevertheless failed to submit compliant filings.

VI. APPELLANT HAS NOT ESTABLISHED GOOD CAUSE UNDER RULE 260(a)

Relief under Rule 260(a), SCACR, is discretionary and equitable in nature.

Appellant's request should be evaluated in light of:

- repeated procedural deficiencies;
- repeated notices from the Court;
- repeated failures to cure deficiencies;
- delayed transcript compliance; and
- the Court's independent finding of "numerous and substantial differences" between the briefs.

The cumulative procedural history weighs strongly against a finding of excusable neglect or good cause sufficient to vacate the dismissal order.

Moreover, it is Appellant's responsibility to perfect and prosecute its appeal in compliance with the South Carolina Appellate Court Rules. After receiving notice of the Rule 211 deficiencies,

Appellant bore the responsibility to cure those deficiencies and ensure that compliant filings were submitted to the Court.

The repeated procedural deficiencies in this matter — including transcript delays, briefing deficiencies, noncompliant filings, and failure to cure Rule 211 violations after notice from the Court — cannot ultimately be shifted to clerical oversight or support staff error. Regardless of who may have prepared or transmitted the filings, counsel remained responsible for ensuring that the appeal was properly perfected and that all filings complied with the South Carolina Appellate Court Rules.

VII. CONCLUSION

This appeal was not dismissed because of a single mistaken upload. The appeal was dismissed because, after notice and opportunity to cure, Appellant still failed to comply with Rule 211, and the Court independently found “numerous and substantial differences” between the filings.

For the foregoing reasons, Respondent respectfully requests that the Court deny Appellant’s Motion to Reinstate Appeal and allow the dismissal order to remain in effect.

Respectfully submitted,

Tunc Eren

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2025-08-10 11:45:59

Tunc Eren

Pro Se Respondent

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CERTIFICATE OF SERVICE

I certify that I have served this Respondent's Brief by U.S. Mail and/or electronic mail on May 15, 2026, to the following:

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Tunc Eren

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Tunc Eren
Respondent
May 15, 2026