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Jun 25 2026

SC Court of Appeals

**IN THE COURT OF APPEALS
STATE OF SOUTH CAROLINA**

**Robert Barnett, as Trustee of the RH 401(k) Plan,
Respondent,**

V.

**Erica Lynn Davis,
Austin J. Davis,
and
Signature Gain Express Trust, DTE 06/22/2022
(An Irrevocable Express Trust Organization),
Harol Alezu Lozano Moran, Sole Trustee,
Defendants,
of which Erica Lynn Davis and Austin J. Davis are the Appellants.**

Appellate Case No. 2025-002218

**RESPONDENTS' MOTION FOR LEAVE TO FILE PROOF OF SERVICE OF RECORD
ON APPEAL OUT OF TIME**

Respondents Erica L. Davis and Austin J. Davis respectfully move this Court for leave to file the Proof of Service of the Record on Appeal out of time pursuant to Rules 208 and 240, SCACR, and would show the Court as follows:

1. The Record on Appeal has been served, and Respondents are contemporaneously filing the Proof of Service required by the South Carolina Appellate Court Rules.
2. The Proof of Service was not filed within the time prescribed by the applicable rules.
3. The failure to timely file the Proof of Service was not intentional and was the result of a good-faith misunderstanding concerning appellate procedure.

4. Respondents were under the impression that the Clerk of Court would furnish or maintain the official Record on Appeal for use by all parties and that no separate filing of proof of service by Respondents was required after the Record had been prepared and transmitted.
5. Upon receiving the Clerk's correspondence dated June 15, 2026, advising that proof of service had not been filed and directing Respondents to seek leave to file outside the prescribed deadlines, Respondents acted promptly to correct the omission.
6. No party will be unfairly prejudiced by allowing the late filing of the Proof of Service. The omission was procedural in nature and was not intended to delay the appeal or impede the administration of justice.
7. South Carolina appellate courts have discretion to permit late filings where the interests of justice so require and where the omission resulted from excusable neglect, mistake, or a good-faith misunderstanding of procedural requirements.

WHEREFORE, Respondents respectfully request that this Court:

- A. Grant leave to file the Proof of Service of the Record on Appeal out of time;
- B. Accept the accompanying Proof of Service as timely filed;
- C. Permit this appeal to proceed without dismissal; and
- D. Grant such other and further relief as the Court deems just and proper.

Respectfully presented,

s/Erica L. Davis
131 Roundtree Drive
Simpsonville, SC 29681

s/Austin J. Davis
131 Roundtree Drive
Simpsonville, SC 29681

Date: June, 24, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this **25th day of June, 2026**, I, **Austin Davis**, placed in the **United States Mail**, first-class postage prepaid, from **Simpsonville, South Carolina 29680**, a true and correct copy of the **Final Record on Appeal** and **Final Brief** for Case No. 2025-002218, addressed to the following counsel of record:

J. Kershaw Spong (SC Bar #5289)
C. Elizabeth Weston (SC Bar #103305)
Robinson Gray Stepp & Laffitte, LLC
P.O. Box 11449
Columbia, SC 29211

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Respectfully presented,

Austin J. Davis

Self-Represented Appellant
Simpsonville, SC 29681

Erica Lynn Davis

Self-Represented Appellant
Simpsonville, SC 29681

Date: June 25, 2026