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Jul 24 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.

**RESPONDENT'S MOTION TO DISMISS APPEAL, OR IN THE
ALTERNATIVE, FOR SANCTIONS AND TO COMPEL COMPLIANCE**

JOHNSTON LAW, LLC

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INTRODUCTION

Respondent McElveen Buick-GMC, Inc. moves to dismiss this appeal based on Appellant's violations of the Court's May 6 directive to immediately notify the Court upon receipt of the transcript so that the briefing schedule may be set, as well as violations of Rule 207(a)(1), SCACR, for failing to contemporaneously furnish all required transcript-related correspondence to the parties, Court Administration, and the Clerk. Respondent further moves to dismiss for Appellant's failure to properly serve required appellate filings, including failure to serve Respondent with any designated materials or transcripts. In the alternative, Respondent requests appropriate sanctions and an order compelling immediate compliance, with dismissal if Appellant does not cure by a date certain.

STATEMENT OF FACTS

On May 6, 2026, the Court issued an order and cover letter directing that "Appellant must notify the Court immediately upon the receipt of the transcript so that the appropriate briefing timeline may be set."

On April 12, 2026, Appellant submitted a transcript request for the August 12, 2025, hearing (Transcript Request ID 142497386), and Court Administration issued notice pursuant to Rule 207(a)(1).

On May 5, 2026, Court Administration issued notice of a transcript request for the same lower-court matter reflecting a request by Appellant and listing Respondent's counsel; the notice referenced Rule 207(a)(1).

On June 2, 2026, Appellant filed a "Notice Regarding Status of Transcript Request," describing correspondence with the court reporter and Court Administration; the filing reflects service by U.S. Mail to Respondent's counsel and submission to the Court on June 8, 2026.

On July 10, 2026, the Clerk informed Appellant that the transcript “should have been delivered,” noted the absence of information about an extension, directed Appellant to contact the Office of Court Administration if she had not received the transcript, and required a status update within ten days on pain of dismissal; the letter also reminded Appellant to copy the Court and opposing counsel on all transcript correspondence.

On July 15, 2026, Appellant’s initial brief was received by the Court of Appeals.

On July 16, 2026, the Court issued a deficiency letter stating the initial brief was not accompanied by a designation of matter to be included in the record on appeal and directing correction within ten days on pain of dismissal.

Appellant thereafter filed a Designation of Matter on July 22, 2026, listing, among other materials, multiple transcripts, and certified that service on Respondent’s counsel occurred by mail on July 17, 2026.

Appellant filed a certificate of service dated July 12, 2026, purporting to have served her initial brief by U.S. Mail; the accompanying page reflects UPS labels and delivery information for a package to the Court rather than proof of successful service on Respondent. Respondent, to date, still has not been served with the Initial Brief.

Respondent contends, based on the foregoing record and counsel’s non-receipt, that Appellant: received the ordered transcript(s) but did not immediately notify the Court as directed by the May 6 order; failed to contemporaneously furnish all transcript-related correspondence to Respondent, Court Administration, and the Clerk as required by Rule 207(a)(1); and failed to properly serve Respondent with the initial brief, the designation of matter, or any designated materials, including the transcript(s). Respondent is unfamiliar with the exact date Appellant received any transcript(s).

ARGUMENT

I. Dismissal Is Warranted for Violation of the Court’s May 6 Order Requiring Immediate Notice Upon Receipt of the Transcript.

The Court’s May 6, 2026 directive unambiguously required Appellant to “notify the Court immediately upon the receipt of the transcript so that the appropriate briefing timeline may be set.”

By July 10, 2026, the Clerk reported that the transcript “should have been delivered,” required Appellant to provide a status update within ten days, and warned that failure to do so would result in dismissal; the Clerk also reiterated Appellant’s obligation to copy the Court and opposing counsel on all transcript correspondence under Rule 207.

Appellant’s failure to promptly and transparently notify the Court of transcript receipt violates the Court’s explicit order and has impeded case management. The violation supports dismissal.

II. Dismissal Is Warranted for Violations of Rule 207(a)(1), SCACR, Concerning Transcript Ordering and Correspondence.

Court Administration issued Rule 207(a)(1) notices reflecting Appellant’s transcript request activity for the underlying hearing(s).

Appellant’s own status filing describes back-and-forth with the court reporter and Court Administration, and the Clerk’s July 10 letter specifically admonished Appellant to copy the Court and opposing counsel with “all correspondence concerning the transcript.”

Despite these requirements and admonitions, the Clerk’s July 10 letter reflects the Court had not received the necessary transcript status or extension information, and it warned of dismissal if Appellant failed to advise the Court within ten days.

Appellant's failure to contemporaneously furnish all transcript-related correspondence to the Court, Court Administration, and Respondent violates Rule 207(a)(1) and warrants dismissal.

Additionally, Respondent contends Appellant failed to furnish the Court and Respondent with copies of the transcript(s).

III. Dismissal Is Further Supported by Appellant's Failure to Properly Serve Required Appellate Filings and Record Materials.

Appellant's initial brief was received by the Court on July 15, 2026, but the Court issued a deficiency letter on July 16, 2026, because the brief lacked the required designation of matter; the letter mandated correction in ten days or dismissal.

While Appellant later filed a designation on July 22, 2026, the initial certificate of service filed July 12, 2026, reflects mailing activity and UPS label information not establishing successful delivery to Respondent, and Respondent did not receive timely service of the initial brief. In fact, on July 21, 2026 the United States Post Office visited Respondent's office space and requested an employee who also works in the office space pay \$4.18 to receive a mailed package from Cheryl Carter. The employee did not have the necessary funds, nor any requirement to pay for the delivery. Respondent is not familiar with what the envelope package contained, only that it was unable to be delivered and it was mailed from Cheryl Carter. The post office conveyed the envelope would be returned to sender.

The failure to properly serve required filings and designated record materials—including transcript(s)—prejudices Respondent and impedes the orderly processing of the appeal, supporting dismissal.

CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, Respondent respectfully requests that the Court:

1. Dismiss the appeal for failure to comply with the Court's May 6 order and with Rule 207(a)(1), SCACR, and for failure to properly serve required appellate filings and record materials.
2. Alternatively, impose appropriate sanctions and enter an order compelling Appellant to:
 - (a) immediately file a notice confirming the date(s) of receipt and current status of all ordered transcript(s); (b) immediately serve and file copies of all transcript-related correspondence required by Rule 207(a)(1), with contemporaneous service on Respondent and the Clerk; (c) serve all filings by electronic mail to ensure delivery to Respondent is made; and (d) immediately serve any designated record materials, including any transcript(s) ordered, with proof of service, all to be completed by a date certain and dismiss the appeal if full compliance is not achieved by that deadline.
3. Grant such other and further relief as the Court deems just and proper.

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PROOF OF SERVICE

The undersigned certifies that the Respondent's Motion to Dismiss Appeal or in the alternative for Sanctions and Compliance were served on Appellant via e-mail and first-class mail on July 24, 2026 as follows:

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