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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.

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

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INTRODUCTION

Respondent's motion should be granted. Appellant has repeatedly defied the Court's May 6 directive, ignored Rule 207(a)(1) copying requirements, and failed to properly serve Respondent with critical filings and record materials. The result is continuing prejudice: Respondent cannot meaningfully respond or brief without proper service and transcript-related disclosures and must continue expending professional and financial resources to request basic compliance. Dismissal is the only adequate remedy on this record.

RELEVANT FACTS

Appellant's Noncompliance with the May 6 Order

On May 6, 2026, the Court directed: "Appellant must notify the Court immediately upon the receipt of the transcript so that the appropriate briefing timeline may be set." The Clerk subsequently advised on July 10, 2026, that the transcript "should have been delivered," required a ten-day status update on pain of dismissal, and reminded Appellant to copy the Court and opposing counsel on all transcript correspondence. Despite these directives, Appellant's filings do not provide the immediate transcript-receipt notice required by the May 6 order.

Appellant's own filings do not identify any "immediate" notice to the Court "upon receipt of the transcript," as required by the May 6 directive; instead, Appellant asserts months of exchanges and later states she "confirmed" that no transcript of August 12, 2025 exists, while also filing a Designation of Matter listing multiple transcripts and without providing the dates of receipt or contemporaneous notifications the Court ordered. Nevertheless, Appellant filed a "Notice of Compliance" which failed to address or remediate any of the compliance and Order violations.

Rule 207(a)(1) SCACR Violations

Court Administration issued Rule 207(a)(1) notices reflecting Appellant's transcript requests on April 12 and May 5, 2026, identifying opposing counsel and distribution recipients. Appellant's June status notice describes back-and-forth with the reporter and Court Administration but required contemporaneous copying and complete transcript status remained deficient as of the Clerk's July 10 letter. The Clerk's July 10 letter expressly admonished Appellant to copy the Court and opposing counsel with "all correspondence concerning the transcript."

Service Failures Precluding Meaningful Response

The Court received Appellant's initial brief on July 15, 2026, but on July 16 issued a deficiency letter because no designation of matter accompanied the brief and warned of dismissal if not corrected in ten days. Appellant filed a Designation of Matter on July 22, 2026, and certified mail service to Respondent. Appellant's July 12, 2026 "certificate of service" for the initial brief is paired with UPS tracking addressed to the Court—not to Respondent—and Respondent did not receive timely service of the brief. Appellant admits the envelope addressed to Respondent was later "Refused" and "returned to sender" after the Postal Service assessed $4.18 postage due; Appellant then resorted to post-hoc re-service. Respondent's office was asked on July 21, 2026, to pay $4.18 postage due for mail from Appellant and was told the envelope would be returned to sender when payment was not made.

Appellant's Inconsistent Assertions and Admissions

Appellant's filings concede deficiencies: the initial brief reached the Court before any designation, service to Respondent was not accomplished contemporaneously, and "re-service" was undertaken only after motion practice highlighted non-receipt. Appellant's Notice of

Compliance acknowledges the returned mailing and claims a subsequent certified-mail and email re-service.

Prejudice and Burden to Respondent

Respondent continues to incur unrecoverable professional time and fees to address serial noncompliance; faces ethical constraints relying on incomplete or extra-record briefing; and is denied the ability to respond meaningfully without proper, rule-compliant service of the initial brief, designation, and transcript-related materials. Anything short of dismissal perpetuates these burdens.

Sanctions and Attorney's Fees

Respondent renews its request for sanctions and fees for the costs of bringing—and now briefing—this motion, necessitated by Appellant's recurring violations and the need to protect the orderly administration of the appeal. Respondent previously sought dismissal and sanctions based on these same categories of noncompliance and non-receipt.

Alternative Relief (Insufficient but Requested if Dismissal Is Denied)

If the Court declines dismissal, Respondent requests an order compelling strict, date-certain compliance as follows, with automatic dismissal upon default:

1. Appellant must, by ten (10) days from order, file and serve a notice stating the precise receipt status and date(s) for each ordered transcript, copying the Office of Court Administration, the Clerk, and Respondent contemporaneously under Rule 207(a)(1), with attached copies of all transcript-related correspondence.
2. Appellant must, by the same deadline, properly serve Respondent with: the initial brief as filed, the Designation of Matter, and each designated item actually in her possession (including any transcripts), with written proof of delivery filed with the Court.

3. Appellant must, for all future transcript communications, contemporaneously copy the Office of Court Administration, the Clerk, and Respondent as Rule 207(a)(1) requires.

Anything less continues the prejudice already documented; only dismissal or automatic-dismissal backstops cure persistent noncompliance.

CONCLUSION

Respondent respectfully requests dismissal of the appeal for Appellant's violations of the Court's May 6 order, Rule 207(a)(1), and failure to properly serve required appellate filings and record materials; the imposition of sanctions and attorney's fees; and such further relief as is just. Alternatively, if dismissal is denied, Respondent requests the date-certain compliance order above with automatic dismissal on noncompliance.

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