

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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AUG 03 2026

APPEAL FROM RICHLAND COUNTY

Joseph M. Strickland, Master-in-Equity

SC Court of Appeals

Appellate Case No. 2024-000917

U.S. Bank Trust National Association, as Trustee of Tiki Series IV Trust, Respondent,
v.

Angela T. Franks aka Angela Thomansina Franks and CMS Roofing, LLC, Defendants,
Of which Angela T. Franks aka Angela Thomansina Franks is the Appellant.

**APPELLANT'S RETURN IN OPPOSITION TO RESPONDENT'S MOTION TO
DISMISS APPEAL; RENEWED REQUEST FOR EXTENSION OF TIME AND
LEAVE TO FILE SECOND AMENDED RECORD ON APPEAL OUT OF TIME**

Appellant Angela T. Franks, proceeding pro se, respectfully returns in opposition to Respondent's July 22, 2026 Motion to Dismiss Appeal. Appellant acknowledges that the Second Amended Record on Appeal was not completed within the original ten-day period stated in the Court's July 2, 2026 Order. Dismissal is nevertheless neither jurisdictionally required nor warranted. The record deadline is extendable under Rule 263(b), SCACR; Appellant has demonstrated good cause for a short extension; she timely filed the amended final brief required by the July 2 Order; and Respondent identifies no prejudice that cannot be cured by setting a firm new record deadline.

I. RELEVANT PROCEDURAL FACTS

1. On July 2, 2026, the Court struck the prior record and directed Appellant to serve and file a Second Amended Record on Appeal with an accurate index, all matter designated by the parties, no matter not presented to the circuit court, complete orders and pleadings, and consecutive pagination beginning with the index.
2. Under Rule 263(a), SCACR, the ten-day period expired on Monday, July 13, 2026 because the tenth day fell on Sunday, July 12, 2026.
3. Appellant timely served and filed the amended final brief on July 13, 2026. Respondent's motion acknowledges that filing, although it contains an obvious typographical reference to July 13, 2016 rather than July 13, 2026.
4. The only outstanding compliance item was the Second Amended Record on Appeal. The source materials exceed 300 pages and mix lower-court pleadings, orders, exhibits, appellate correspondence, bankruptcy materials, and documents from a separate 2017 action. The July 2 Order required a document-by-document review rather than simple repagination.
5. Appellant obtained and reviewed the Richland County Public Index for case 2022-CP-40-02905 to verify which documents were actually filed below and to identify the complete stay

and restore motions and orders, hearing notices, affidavits, motion to dismiss, answer, Record of Hearing, and foreclosure judgment.

6. Appellant contacted the Clerk's office on July 22, 2026 and was advised she could request an extension of time. Appellant has prepared and submits with or in conjunction with this Return a request for additional time and leave to file the Second Amended Record out of time.
7. Respondent filed its dismissal motion on July 22, 2026. Under Rule 240(b), SCACR, that motion automatically stays the time limits for perfecting the appeal until the motion is decided.

II. RESPONDENT'S MOTION DOES NOT JUSTIFY THE HARSHTEST SANCTION

Rule 240(c)(2), SCACR, requires an appellate motion to include a memorandum with citation of authorities. Respondent's motion asks for the ultimate sanction of dismissal but cites no rule, statute, or case in support of that request. Its caption also omits CMS Roofing, LLC and the complete caption the Court previously directed the parties to use, and the motion states that Appellant filed the amended final brief on July 13, 2016 rather than July 13, 2026. Appellant does not ask the Court to deny Respondent's motion solely because of these curable defects. They do, however, demonstrate why the rules should be applied evenhandedly and why a curable, nonjurisdictional default by a pro se appellant should not result in dismissal while comparable defects by represented counsel are overlooked.

Respondent's procedural chronology also treats Court-approved extensions as though they were violations. An extension granted by the Court is compliance with the modified deadline, not misconduct. The Court should decide the present motion on the actual nine-day record default, Appellant's prompt request for relief, the technical demands of the July 2 Order, the absence of prejudice, and the availability of an effective lesser remedy.

III. THE RECORD DEADLINE IS NONJURISDICTIONAL AND EXPRESSLY EXTENDABLE

Rule 263(b), SCACR, permits the appellate court to extend the time prescribed by the appellate rules for performing any act other than service of a notice of appeal under Rules 203 and 243. The act at issue here is preparation and filing of the Second Amended Record on Appeal, not service of the notice of appeal. The Court therefore retains authority to enlarge the deadline and accept the corrected record out of time.

Rule 260(a), SCACR, provides a dismissal mechanism for noncompliance and permits reinstatement upon good cause. Rule 263(b), however, expressly authorizes the Court to extend this nonjurisdictional deadline. Respondent's motion therefore does not establish that dismissal is the only lawful remedy; the Court may deny dismissal, grant leave to file out of time, and impose a firm new deadline that cures the present defect.

IV. GOOD CAUSE EXISTS FOR A SHORT, FIRM EXTENSION

The July 2 Order imposes exacting content and certification duties. Rule 210(c), SCACR, requires all designated matter, exclusion of matter not presented below, prescribed document order, complete copies of included orders and pleadings, and consecutive pagination beginning with the index. Rule 210(g) provides that filing the Record constitutes a certification that it contains all material proposed by the parties and no other material. Appellant should not be required to make that certification without first verifying the lower-court docket and matching each designated item to a complete filed document.

The delay was not deliberate, contumacious, or intended to obtain tactical advantage. Appellant timely complied with the amended-final-brief portion of the July 2 Order and has continued working to obtain and verify the lower-court file. The Public Index confirms numerous separately filed items that must be located, assembled, and indexed accurately. A short extension promotes compliance with the Court's order rather than evasion of it.

V. RESPONDENT SHOWS NO PREJUDICE, AND LESSER RELIEF FULLY PROTECTS RESPONDENT

The July 2 Order gives Respondent ten days after receipt of the Second Amended Record to serve and file its final brief. Thus, Respondent's briefing time does not begin until the corrected record is served. Respondent identifies no lost evidence, impaired argument, or other substantive prejudice caused by allowing a short extension.

A firm deadline, coupled with the Court's existing authority under Rule 260, fully protects Respondent and the orderly administration of the appeal. Dismissal would extinguish appellate review when a narrower remedy—granting a short extension and requiring strict compliance by a date certain—directly cures the current defect.

VI. SOUTH CAROLINA POLICY FAVORS MERITS REVIEW OVER THE HARSHEST PROCEDURAL SANCTION

South Carolina policy favors disposition of disputes on their merits rather than on technicalities. *Micronics, Inc. v. South Carolina Department of Revenue*, 345 S.C. 506, 511, 548 S.E.2d 223, 226 (Ct. App. 2001). South Carolina courts also recognize dismissal as a harsh sanction generally reserved for a clear record of delay or contumacious conduct and after consideration of less drastic remedies. *McComas v. Ross*, 368 S.C. 59, 63, 626 S.E.2d 902, 904 (Ct. App. 2006). Although those cases arose in trial-level procedural settings, their sanction principles strongly support using an available, effective lesser remedy here.

Respondent's chronology lists extensions that the Court itself granted. A court-authorized extension is not itself a violation of a deadline. The chronology also omits the important fact that the Court afforded Respondent a ten-day cure period when Respondent's own final brief was overdue on May 29, 2026. Appellant requests the same basic opportunity to cure an extendable, nonjurisdictional deadline—not preferential treatment.

VII. THE COURT SHOULD NOT TREAT ADVERSE PROCEDURAL HISTORY AS PROOF OF BAD FAITH

Respondent characterizes prior corrections and extensions as repeated disregard of the rules. The prior orders show, however, that the Court denied Respondent's earlier dismissal requests and permitted correction of curable defects. The present task is unusually technical: the Court directed Appellant to include every properly designated lower-court item, exclude every improper item, provide complete documents, and create an accurate page-specific index. Appellant's effort to verify those matters is inconsistent with abandonment of the appeal.

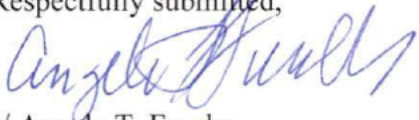
The present motion should be decided on the current default, the available extension authority, the reasons for the delay, the absence of prejudice, and the effectiveness of a date-certain extension—not on rhetoric suggesting that every prior court-approved extension constituted misconduct.

VIII. REQUEST FOR RELIEF

WHEREFORE, Appellant respectfully requests that the Court:

- A. DENY Respondent's Motion to Dismiss Appeal;
- B. GRANT Appellant leave to serve and file the Second Amended Record on Appeal out of time;
- C. SET the deadline for the Second Amended Record on Appeal as August 21, 2026, or twenty-one days after entry of the order disposing of Respondent's motion to dismiss, whichever is later;
- D. CONFIRM that Respondent's ten-day period for its final brief will run from receipt of the Second Amended Record, as stated in the July 2, 2026 Order;
- E. MAINTAIN the appeal in abeyance only as necessary to permit filing of the corrected record; and
- F. GRANT such other and further relief as the Court deems just and proper.

Respectfully submitted,



s/ Angela T. Franks

Angela T. Franks, Appellant pro se

P.O. Box 983

Columbia, South Carolina 29202

Telephone: (803) 466-3005

Dated: August 03, 2026

MEMORANDUM OF AUTHORITIES

Rule 240(b), SCACR, automatically stays the time limits for perfecting an appeal when a motion to dismiss is filed. Rule 240(c)(2) requires every appellate motion to include a memorandum with citation of authorities, and Rule 240(e) permits an opposing party ten days from service to file a return. Rule 263(b) authorizes extension of every appellate deadline except the jurisdictional time for service of a notice of appeal under Rules 203 and 243. Rule 210(c) prescribes the content and organization of the Record on Appeal, and Rule 210(g) makes filing the Record a certification of completeness and exclusion of improper matter. Rule 260(a) governs involuntary dismissal and reinstatement. These rules, read together, permit denial of dismissal and entry of a firm extended deadline for the Second Amended Record.

Micronics, Inc. v. South Carolina Department of Revenue, 345 S.C. 506, 511, 548 S.E.2d 223, 226 (Ct. App. 2001), recognizes South Carolina policy favoring disposition on the merits rather than on technicalities. *McComas v. Ross*, 368 S.C. 59, 63, 626 S.E.2d 902, 904 (Ct. App. 2006), recognizes dismissal as a harsh sanction generally associated with a clear record of delay or contumacious conduct and the inadequacy of lesser remedies. A date-certain extension is an effective lesser remedy here.

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CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of August, 2026, I served a true and correct copy of the foregoing Appellant's Return in Opposition to Respondent's Motion to Dismiss Appeal and Renewed Request for Extension of Time upon all counsel of record by United States Mail, first-class postage prepaid, and/or authorized electronic service, addressed as follows:

Mr. Brian Lawrence Campbell, Esquire
2840 S. College Road, Suite 451
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ORDER

This matter is before the Court on Respondent's Motion to Dismiss Appeal and Appellant's Return in Opposition and Renewed Request for Extension of Time. After consideration of the filings, the Court finds good cause to deny dismissal and permit completion of the Second Amended Record on Appeal.

IT IS ORDERED that Respondent's Motion to Dismiss Appeal is DENIED. Appellant shall serve and file the Second Amended Record on Appeal on or before August 21, 2026, or within twenty-one days after filing of this Order, whichever is later. Respondent's time to serve and file its final brief shall run from receipt of the Second Amended Record on Appeal as provided in the Court's July 2, 2026 Order.

IT IS SO ORDERED.

Judge, South Carolina Court of Appeals

Date: _____