

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

**Zurich American Insurance Company of Illinois,
Respondent,**

v.

**Palmetto Contract Services, Inc.,
Appellant.**

Appellate Case No. 2025-001339

**The Honorable Mikell R. Scarborough
Charleston County
Trial Court Case No. 2015CP1006684**

RECEIVED
AUG 17 2026
SC Court of Appeals

**RESPONDENT'S RETURN IN OPPOSITION TO APPELLANT'S MOTION FOR
EXTENSION TO FILE FINAL BRIEF**

Respondent, Zurich American Insurance Company of Illinois ("Respondent"), by and through its undersigned counsel, submits this Return pursuant to Rule 240(e), SCACR, in opposition to Appellant's Motion for Extension to File Final Brief, served and filed August 10, 2026 (the "Motion"). The Motion should be denied.

PRELIMINARY MATTER

The Motion recites that it is based upon "Counsel for Respondents pre-planned family vacation." Respondent's counsel took no vacation during the periods described and has sought no relief on that or any similar ground. The vacation described is that of Appellant's counsel. Respondent notes the erroneous description only so that the record is clear.

BACKGROUND

1. On August 7, 2026, Respondent filed its Motion to Dismiss Appeal and, in the Alternative, Motion for Enlargement of Time to Serve and File Respondent's Final Brief, and Supporting Memorandum, together with the Affidavits of Larry D. Cohen, Carolyn H. Blue and Ginger McMullin (the "Motion to Dismiss"). That motion is pending before this Court.

2. By Order dated June 23, 2026, this Court extended the time for serving the Record on Appeal until July 15, 2026, and directed that all final briefs be served and filed, and the Record on Appeal filed, within twenty (20) days of the date of service of the Record on Appeal.

3. The Record on Appeal has never been served upon Respondent. As of the date of this Return it remains unserved, and no proof of service, affidavit of service or certificate of service for the Record on Appeal has been filed. See Affidavits of Larry D. Cohen and Carolyn H. Blue, filed concurrently with this Return.

4. Appellant's Motion seeks a three-day extension of time for Appellant to file its own Final Brief. It seeks no relief with respect to the Record on Appeal.

5. Attached to Appellant's Motion is a Secure Leave Confirmation from the Attorney Information System reflecting that Appellant's counsel designated the weeks of July 13 through July 17, 2026, July 27 through July 31, 2026, and August 3 through August 7, 2026. Each was requested on November 26, 2025.

6. Appellant's counsel did not contact Respondent's counsel before filing the Motion for Extension and did not seek Respondent's position on it.

ARGUMENT

I. The Motion Is Unnecessary Because the Time Limits Appellant Seeks to Extend Are Already Stayed.

Rule 240(b), SCACR, provides that a motion to dismiss an appeal automatically stays the time limits for perfecting the appeal until the motion is decided. Respondent's Motion to Dismiss was filed on August 7, 2026 and remains pending. As Respondent noted at paragraph 32 of its Motion to Dismiss, service and filing of final briefs are steps in the perfection of this appeal.

Appellant's Motion asks this Court for a three day extension that Rule 240(b) has already provided. To the extent the Motion is directed at the ten-day period identified in the Deputy Clerk's letter of July 31, 2026, that period was stayed on August 7, 2026, three days before Appellant's Motion was filed.

II. A Secure Leave Designation Does Not Extend a Deadline to File or Serve.

The governing instrument for the Secure Leave Designation is the Supreme Court's Order dated June 19, 2024, Extension of Pilot Program for the Designation of Secure Leave Periods by Lawyers, Appellate Case No. 2018-000122 (the "Secure Leave Order"). Paragraph (f) of that Order provides that a secure leave designation shall not toll or otherwise extend the deadlines to file or serve pleadings and other papers or documents in the courts. A final brief is such a paper. The designation attached to the Motion cannot, as a matter of the Supreme Court's express direction, extend the deadline Appellant asks this Court to extend.

Paragraph (a) of the Secure Leave Order confirms the limited scope of the protection. A designating lawyer is protected from appearing in a trial, hearing, or other court proceeding. No trial, hearing, deposition or other proceeding was scheduled in this appeal during any of the designated weeks. There was nothing from which the designation could protect Appellant's counsel, and the designation supplies no ground for the relief Appellant's Motion seeks.

III. Appellant Never Served the Designation Upon Respondent and Never Disclosed It to This Court.

Paragraph (c)(3) of the Secure Leave Order requires a lawyer who makes a secure leave designation to promptly serve that designation upon all parties of record in cases in which that lawyer has made an appearance. Appellant's counsel designated the 2026 weeks on November 26, 2025. Neither the undersigned counsel nor co-counsel Carolyn H. Blue, Esquire, was ever

served with Appellant's designation. Appellant produced it for the first time as an attachment to the Motion for Extension on August 10, 2026, nearly nine months after Appellant's designation was made. See Affidavits of Larry D. Cohen and Carolyn H. Blue, filed concurrently with this Return.

Nor did this Court have notice of it. Paragraph (c)(1) of the Secure Leave Order provides that designations entered in the Attorney Information System are electronically shared with the court of common pleas, the court of general sessions, the office of the master-in-equity, the magistrates courts and those municipal courts which utilize the statewide case management system. The appellate courts are not among the courts to which designations are transmitted.

The consequence is concrete. This Court's Order of June 23, 2026 fixed July 15, 2026 as the date by which the Record on Appeal was to be served by Appellant. That date falls within the week of July 13 through July 17, 2026, which Appellant's counsel had designated nearly seven months earlier. Paragraph (e) of the Secure Leave Order provides that where a proceeding is scheduled during a designated secure leave period and the lawyer wishes to exercise the right to secure leave, the lawyer shall promptly file and serve upon all parties a copy of the designation together with a request that the proceeding be continued or rescheduled. Appellant's counsel did neither. Appellant's counsel said nothing about the designation for the seven weeks following this Court's Order of June 23, 2026, and disclosed it for the first time only after Respondent moved to dismiss his client's appeal.

IV. The Chronology Does Not Support Appellant's Motion, and the Motion Is Unsupported in Any Event.

Appellant's counsel's designated weeks were July 13 through July 17, July 27 through July 31, and August 3 through August 7, 2026. The week of July 20 through July 24, 2026 was

not designated. This Court's Order of June 23, 2026 fixed July 15, 2026 as the date by which the Record on Appeal was to be served. Of the twenty-two days between the date of that Order and that deadline, only three days fell within Appellant's counsel's designated secure leave period. August 10, 2026, the date on which Appellant states its Final Brief was due, was not designated. Appellant's counsel's office transmitted filings in this appeal on June 15, 2026, on June 17, 2026, on June 19, 2026, on June 25, 2026, on August 10, 2026 and again on August 11, 2026.

Appellant's remaining grounds for relief fare no better. Rule 211(b), SCACR, provides that the final brief shall be identical to the brief previously served under Rule 208, except for revised references to the Record on Appeal, the cover, and any appendix. Appellant served and filed its Initial Brief on September 26, 2025. The "relative complexity of the issues on appeal" supplies no ground for additional time to conform a brief served eleven months ago. Neither does counsel's "busy trial and deposition schedule," which is the ground Appellant offers in its motions of June 15, 2026 and June 17, 2026, and the ground offered for each default preceding those motions. Appellant's Motion for Extension is also unsupported as filed. Rule 240(c)(2), SCACR, requires that a motion include a memorandum with citation of authorities in support of the motion. Appellant's Motion for Extension cites no authority. Rule 240(c)(3), SCACR, requires an affidavit where the facts relied upon in support of a motion are not contained in the Record on Appeal. The Motion is unsworn, and every fact on which it rests is outside the Record.

V. Appellant's Motion for Extension Is Moot and Is Not a Response to the Pending Motion to Dismiss.

Respondent's Motion to Dismiss rests upon Appellant's failure to serve the Record on Appeal within the time ordered by this Court and upon Appellant's failure ever to file a proof of

service of the Record on Appeal. Appellant's Motion for Extension seeks no relief as to either. Appellant has now filed its Final Brief and both defaults remain uncured. The Record on Appeal remains unserved as of the date of Respondent's Return. The distinction between *filing* and *service* is one this Court has already drawn in this appeal. The Deputy Clerk's letter of July 31, 2026, recites that this Court's Order of June 23, 2026, directed all final briefs to be *served* and *filed* within twenty days of the date of service of the record on appeal, "which was filed on June 25, 2026." See Affidavit of Larry D. Cohen, Exhibit "1." The Deputy Clerk's letter identifies the date on which the Record was *filed*. It identifies no date on which the Record was *served*, because there is none.

On August 11, 2026, Appellant served and filed its Final Brief. Appellant did so one day after moving this Court for leave to file by August 13, 2026, and before this Court ruled upon Appellant's Motion. The relief Appellant's Motion requests has therefore become moot. Appellant's filing is consistent with Respondent's position that no extension was required, the time limits governing the perfection of this appeal having been stayed by Rule 240(b), SCACR, upon the filing of Respondent's Motion to Dismiss on August 7, 2026.

Appellant's Final Brief was accompanied by a signed Proof of Service certifying service upon the undersigned counsel and upon Carolyn H. Blue, Esquire, by electronic mail on August 11, 2026. Appellant prepared and filed the Proof of Service for its Final Brief. Appellant has never prepared or filed a Proof of Service for the Record on Appeal. That omission is the subject of Respondent's pending Motion to Dismiss, and Appellant's filing of August 11, 2026 does not cure it. The Record on Appeal has still not been served upon Respondent.

Respondent's alternative request for an enlargement of time to serve and file Respondent's own Final Brief remains necessary for the reason stated in Respondent's Motion to

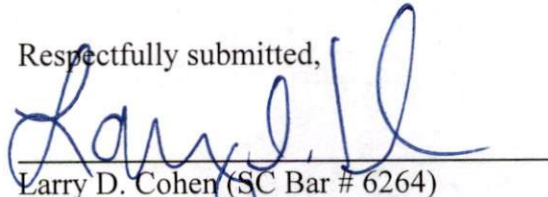
Dismiss. Rule 211(b)(1), SCACR, requires that the references in Respondent's initial brief be revised to indicate where the material appears in the Record on Appeal. Respondent has never been served with the Record and cannot comply.

CONCLUSION

For the foregoing reasons, Respondent respectfully requests that Appellant's Motion for Extension to File Final Brief be denied as moot. In the alternative, if the Motion is not denied as moot and is granted, Respondent requests that the Court's order provide that it does not affect Respondent's pending Motion to Dismiss Appeal, does not excuse Appellant's failure to serve the Record on Appeal or to file a proof of service of the Record on Appeal, and does not constitute a finding of good cause as to any prior default in this appeal.

Charleston, South Carolina
August 12, 2026

Respectfully submitted,



Larry D. Cohen (SC Bar # 6264)
Carolyn H. Blue (SC Bar # 68506)
Larry D. Cohen, LLC
Attorneys At Law
P.O. Box 30547
Charleston, SC 29417
Tel: (843) 225-4445
Fax: (843) 225-2009
Ldcohen@Ldcohenlaw.com
carolyn.blue@ymail.com

Attorneys for Respondent

5. I first received a copy of the Secure Leave Confirmation of Thomas Jefferson Goodwyn, Jr. as an attachment to Appellant's Motion for Extension to File Final Brief on August 10, 2026.

6. Mr. Goodwyn did not contact me before filing Appellant's Motion for Extension to File Final Brief and did not seek Respondent's position on it.

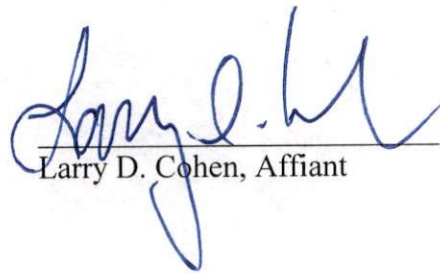
7. As of the date of this affidavit, the Record on Appeal has not been served upon me or upon Larry D. Cohen, LLC, in any form, by any means.

8. As of the date of this affidavit, I have not received from Appellant or Appellant's counsel any proof of service, affidavit of service or certificate of service certifying service of the Record on Appeal.

9. On August 3, 2026, I obtained a copy of the Record on Appeal from the records of this Court. I state again, as I did in my affidavit of August 7, 2026, that I do not treat that retrieval as service upon Respondent, and it does not cure Appellant's failure to serve the Record on Appeal or to file a proof of service.

10. Attached hereto as Exhibit "1" is a true and correct copy of the letter of the Deputy Clerk of Court dated July 31, 2026, addressed to Appellant's counsel and copied to me, which I received by electronic mail on that date.

FURTHER AFFIANT SAYETH NOT.


Larry D. Cohen, Affiant

SWORN to before me this 12th day
of August 2026.



Notary Public for South Carolina
My Commission Expires: April 14, 2027

EXHIBIT 1



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
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COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 31, 2026

Mr. Thomas Jefferson Goodwyn, Jr., Esquire
2309 Devine St.
Columbia SC 29205

Re: Zurich American Insurance Company v. Palmetto Contract Services, Inc.
Appellate Case No. 2025-001339

Dear Counsel:

This Court's order dated June 23, 2026, directed all final briefs to be served and filed within twenty days of the date of service of the record on appeal which was filed on June 25, 2026. Within ten (10) days of the date of this letter, all final briefs and one bound paper copy of each brief must be served and filed, or this appeal will be dismissed. We request large parcels such as bound copies be sent directly to the Court via the street address: **1220 Senate Street, Columbia, SC 29201.**

Very truly yours,

Catherine Harrison, deputy
CLERK

cc: Larry D. Cohen, Esquire
Carolyn H. Blue, Esquire

**Zurich American Insurance Company of Illinois,
Respondent,**

**Palmetto Contract Services, Inc.,
Appellant.**

The Honorable Mikell R. Scarborough
Charleston County
Trial Court Case No. 2015CP1006684

5. I have searched my email account for any message from Mr. Goodwyn or from his office transmitting or referring to a secure leave designation. My search included my inbox, my spam folder, my trash folder and all other folders in the account. No such message appears in my account.

6. I have received no notice of any kind, whether by email, facsimile, United States Mail or otherwise, of any secure leave designation of Mr. Goodwyn.

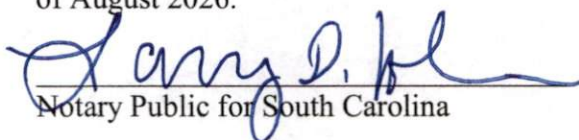
7. I first received a copy of the Secure Leave Confirmation of Thomas Jefferson Goodwyn, Jr. as an attachment to Appellant's Motion for Extension to File Final Brief on August 10, 2026.

8. As of the date of this affidavit, the Record on Appeal has not been served upon me in any form or by any means.

FURTHER AFFIANT SAYETH NOT.


Carolyn H. Blue, Affiant

SWORN to before me this 12th day
of August 2026.


Notary Public for South Carolina

My Commission Expires: April 14, 2027

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

**Zurich American Insurance Company of Illinois,
Respondent,**

v.

**Palmetto Contract Services, Inc.,
Appellant.**

Appellate Case No. 2025-001339

**The Honorable Mikell R. Scarborough
Charleston County
Trial Court Case No. 2015CP1006684**

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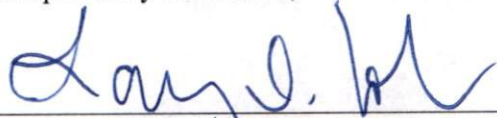
AUG 17 2026

SC Court of Appeals

PROOF OF SERVICE

I certify that I have served Respondent's Return in Opposition to Appellant's Motion for Extension to File Final Brief, together with the Affidavits of Larry D. Cohen and Carolyn H. Blue and this Proof of Service, upon Thomas Jefferson Goodwyn, Jr., Esquire, Goodwyn Law Firm, LLC, 2309 Devine Street, Columbia, South Carolina 29205, by depositing copies of the same in the United States Mail, postage prepaid, and by email to jgoodwyn@goodwynlaw.com, on August 12, 2026. A copy of the sent email message is enclosed.

Respectfully submitted,



Larry D. Cohen (SC Bar # 6264)
Carolyn H. Blue (SC Bar # 68506)
Larry D. Cohen, LLC
Attorneys At Law
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carolyn.blue@ymail.com

Attorneys for Respondent

Charleston, SC
August 12, 2026

Larry D. Cohen

From: Acknowledgement <acknowledge@r1.rpost.net>
Sent: Wednesday, August 12, 2026 4:11 PM
To: Larry D. Cohen
Subject: Ack: Appellate Case No. 2025-001339; Respondent's Return in Opposition to Motion for Extension

RMail Acknowledgement - Proof of Sending

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Cc:	<carolyn.blue@YMail.com> <jgoodwyn@goodwynlaw.com> <lbeckman@sccourts.org>
Subject:	Appellate Case No. 2025-001339; Respondent's Return in Opposition to Motion for Extension
Received by RMail:	(UTC) 08/12/2026 08:10:57 PM (Local) 08/12/2026 08:10:57 PM
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Larry D. Cohen

From: Larry Cohen <ldcohen@ldcohenlaw.com>
Sent: Wednesday, August 12, 2026 4:11 PM
To: ctappfilings@sccourts.org
Cc: CH Blue; jgoodwyn@goodwynlaw.com; lbeckman@sccourts.org
Subject: Registered: Appellate Case No. 2025-001339; Respondent's Return in Opposition to Motion for Extension
Attachments: Return to Appellant Motion for Extension (Bates).pdf



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This is a Registered Email™ message from **Larry Cohen**. Your reply will be returned as a Registered Email message.

Ms. Kitchings:

Our law firm represents Respondent Zurich American Insurance Company of Illinois in the above-referenced appeal. Attached are Respondent's Return in Opposition to Appellant's Motion for Extension to File Final Brief, together with the Affidavits of Larry D. Cohen and Carolyn H. Blue and Proof of Service.

The original and one copy of these documents are being deposited in the United States Mail by Priority Mail today, August 12, 2026.

A copy of Respondent's Return, together with the Affidavits of Larry D. Cohen and Carolyn H. Blue and Proof of Service, is being served on opposing counsel under cover of this email and via USPS First-Class Mail.

Thank you for your help with this matter.

Larry D. Cohen
Larry D. Cohen, LLC
Attorneys at Law
O (843) 225-4445
F (843) 225-2009

Mailing Address:
Post Office Box 30547
Charleston, S.C. 29417

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Charleston, S.C. 29407

email: Ldcohen@Ldcohenlaw.com

This email has been scanned by Inbound Shield.

LARRY D. COHEN, LLC

Attorneys at Law
Post Office Box 30547
Charleston, S.C. 29417

Telephone: (843) 225-4445
Facsimile: (843) 225-2009

Larry D. Cohen *▼
Debra L. Redman ♦▼
Carolyn H. Blue (Of Counsel) +●

* Member SC, FL, GA & TX
▼ ♦ Member SC & TX Bars
+Member SC & Florida Bars
▼ TX- inactive ● FLA-inactive

Ldcohen@Ldcohenlaw.com

August 12, 2026

***VIA USPS PRIORITY MAIL
and ELECTRONIC MAIL***

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED
AUG 17 2026
SC Court of Appeals

Re: Zurich American Insurance Company of Illinois, Respondent
v.
Palmetto Contract Services, Inc., Appellant
Appellate Case No. 2025-001339

Dear Ms. Kitchings:

Enclosed, please find an original and one copy of the following documents filed on behalf of our client, Respondent Zurich American Insurance Company of Illinois:

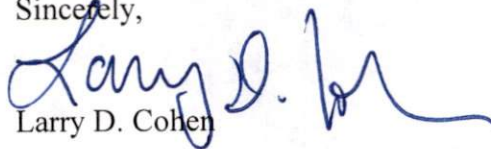
1. Respondent's Return in Opposition to Appellant's Motion for Extension to File Final Brief;
2. Affidavits of Larry D. Cohen and Carolyn H. Blue;
3. Proof of Service; and
4. Copy of transmittal email to the Court and opposing counsel.

Letter to The Honorable Jenny Abbott Kitchings
August 12, 2026
Page 2 of 2

This Return is filed pursuant to Rule 240(e), SCACR. No motion fee is enclosed, as the enclosed document is a return rather than a motion or petition. Should a fee be required, please advise and it will be transmitted immediately.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,


Larry D. Cohen

LDC/jmr
enclosures

cc: T. Jeff Goodwyn, Jr., Esq.
Goodwyn Law Firm, LLC
2309 Devine St.
Columbia, SC 29205
w/enclosures
jgoodwyn@goodwynlaw.com
via email and U.S. Mail

Carolyn H. Blue, Esquire
via email



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Larry D. Cohen, LLC
Attorneys at Law
Post Office Box 30547
Charleston, SC 29417

The Honorable
Clerk of Court
South Carolina
Post Office
Columbia, SC

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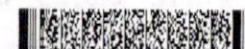


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