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Aug 25 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
The Honorable Vernon F. Dunbar, Circuit Court Judge

Case No. 2025-CP-23-04210
Appellate Case No. 2026-000858

Frank George Rogers, individually and derivatively as a member and on behalf of
Exodus Aircraft, LLC,

Respondents,

v.

Joshua Brett Kimbrell, Liliya Shcherba Robertson Kimbrell, Exodus Airways, LLC,
Thomas Blake Whitaker, Defendants,

of which Joshua Brett Kimbrell and Liliya Shcherba Robertson Kimbrell are the

Appellants.

**APPELLANTS' CONSENT MOTION FOR LEAVE TO FILE INITIAL BRIEF
AND DESIGNATION OF MATTER OUT OF TIME**

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Appellants Joshua Brett Kimbrell and Liliya Shcherba Robertson Kimbrell respectfully move this Court for leave to file their Initial Brief and Designation of Matter to be Included in the Record on Appeal out of time. The brief and designation are being filed with this motion. In support, Appellants show the Court as follows:

1. Appellants' Initial Brief and Designation of Matter were due to be served and filed on Friday, August 21, 2026. This motion is made 4 days after that deadline, and the brief and designation accompany it.
2. The brief could not be completed by the deadline because of other business and previously scheduled travel by counsel for Appellants. In the same period in which the brief in this appeal came due, counsel was responsible for briefing in other

appellate matters with competing deadlines. Despite diligent effort, counsel required a short additional period to complete the brief.

3. The brief delay causes no prejudice to either party and does not unreasonably delay the consideration of this matter. No date for oral argument has been set, the Record on Appeal has not yet been prepared, and the time for Respondents' brief runs from service of Appellants' brief, so the schedule for the remainder of the appeal is unaffected.
4. Counsel for Respondent has been consulted and consents to the relief requested in this motion.
5. This motion is made in good faith and not for purposes of delay.

For these reasons, Appellants respectfully request that the Court grant leave to file the Initial Brief and Designation of Matter out of time, deem the brief and designation tendered with this motion to be timely filed and served, and grant such other relief as the Court deems just and proper.

Respectfully submitted,

s/ Joshua Snow Kendrick
Joshua Snow Kendrick (S.C. Bar No. 70453)
Christopher S. Leonard (S.C. Bar No. 80166)
KENDRICK & LEONARD, P.C.
7 Mills Avenue (29605)
P.O. Box 6938
Greenville, South Carolina 29606
(864) 760-4000
Josh@KendrickLeonard.com
Attorneys for Appellants

Greenville, South Carolina
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FRANK GEORGE ROGERS, individually and derivatively
as a member and on behalf of Exodus Aircraft, LLC,

Respondent,

v.

JOSHUA BRETT KIMBRELL, LILIYA SCHCERBA
ROBERTSON KIMBRELL, EXODUS AIRWAYS, LLC, THOMAS
BLAKE WHITAKER, Defendants,

of which JOSHUA BRETT KIMBRELL and LILIYA SCHCERBA
ROBERTSON KIMBRELL are the

Appellants.

CERTIFICATE OF SERVICE

The undersigned counsel certifies he has served a copy of the initial brief, designation of matter, and motion to file out of time by electronic mail on opposing counsel at the following e-mail addresses this 25th day of August, 2026. All parties are informed that counsel will mail a hard copy if requested:

Hannah Rogers Metcalfe, Esquire
HMetcalfe@MALawFirmSC.com

Respectfully Submitted,

s/ Joshua Snow Kendrick

Joshua Snow Kendrick (SC ID 70453)
KENDRICK & LEONARD, P.C.
7 Mills Avenue (29605)
P.O. Box 6938
Greenville, SC 29606
Tel: (864) 760-4000
Josh@KendrickLeonard.com

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