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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County
Court of Common Pleas
The Honorable Courtney Clyburn Pope, Circuit Court Judge

Civil Action No. 2026-CP-02-00515
Appellate Case No. 2026-001392

Joel Morris as Power of Attorney for Carmen
Morris.....RESPONDENT,

v.

NHC Healthcare-North Augusta, LLC; NHC-OP, LP, National Health Corporation, National
Healthcare Corporation, and Bradley Morehouse.....APPELLANTS.

APPELLANTS' RETURN TO MOTION TO DISMISS APPEAL

Pursuant to Rule 240(e), Appellants NHC Healthcare-North Augusta, LLC; NHC-OP, LP,
National Health Corporation, National Healthcare Corporation, and Bradley Morehouse hereby
file this Return to Respondent Joel Morris as Personal Representative of the Estate of Carmen
Morris's Motion to Dismiss Appeal for Failure to Serve and File Initial Brief and Designation of
Matter.

Appellants respectfully request the Court deny Respondent's Motion, grant Appellants'
separately filed Motion for Extension of Time, and permit this appeal to proceed.

ARGUMENT

As a threshold matter, Appellants set forth in their separately filed Motion for Extension
of Time, filed on September 8, 2026, that they were seeking additional time to serve and file the
Initial Brief and Designation of Matter. Prior to filing that Motion, counsel attempted to confer

with counsel for Respondent, but received no consent or response as to the extension. However, notice was provided prior to filing as to Appellants' calendaring error regarding the deadline at issue in Respondent's instant Motion.

As noted in the prior filed Motion for Extension—which was held in abeyance pending the Court's decision on this Motion—the Initial Brief and Designation of Matter to be Included in the Record on Appeal of Appellants NHC Healthcare-North Augusta, LLC; NHC-OP, LP, National Health Corporation, National Healthcare Corporation, and Bradley Morehouse was due on September 2, 2026. Appellants intended to file their Motion for Extension prior to that September 2 deadline, but inadvertently did not do so due to a clerical error relative to calendaring of the deadline to do so. Counsel for Appellants intended to request this second extension due to their workload, which included preparing for a date-certain trial which was set to start on September 8, 2026, and other work on other matters prior to the original deadline.

Without authority, Respondent states that appellate courts have held that failure to file by deadline forfeits the right to appeal. However, as Respondent notes, Rule 260(a) will permit this Court to deny Respondent's Motion upon showing of good cause. *See* Rule 260(a), SCACR. The good-cause basis to deny the Motion is simple clerical error. As noted in various other contexts, including the more stringent "good cause" as it exists in other areas of South Carolina law, there is a preference in South Carolina courts to allow issues to proceed on the merits. *Caldwell v. Wiquist*, 402 S.C. 565, 575, 741 S.E.2d 583, 588 (Ct. App. 2013) ("Furthermore, our decision to reverse the trial court's refusal to set aside the default judgments is consistent with the policy of our state to resolve cases on the merits."). And, in at least one other context, the supreme court has found mis-calendaring on a lower court appeal to be a good cause. *See, e.g., Morris v. BB&T Corp.*, 438 S.C. 582, 584, 885 S.E.2d 394, 396 (2023) (finding good cause in workers'

compensation appeal “after the attorney explained he made an innocent calendaring mistake”); *Jordan v. Hartford Fin. Grp., Inc.*, 435 S.C. 501, 506, 868 S.E.2d 400, 403 (Ct. App. 2021) (“To be sure, miscalendaring is not always good cause. But a reflexive refusal to consider that a calendaring mistake could be good cause is an abuse of discretion. Some decisions have refused to find the neglect of a party's lawyer or agent in forwarding a summons or other time-triggering paperwork sufficient good cause to set aside a default, but those cases dealt with degrees of carelessness and periods of inattention far greater than we have here, and none tossed a party out of court for not timely filing a brief at a later stage of a perfected case.”).

Notably, the Motion for Extension of Time was filed on September 8, 2026. The original deadline was September 2, 2026 and the intervening five days included a Saturday, Sunday, and the Labor Day holiday. *See Columbia Pools, Inc. v. Galvin*, 288 S.C. 59, 61, 339 S.E.2d 524, 525 (Ct. App. 1986) (vacating default judgment entered after answer filed one day late and noting “where there is a good faith mistake of fact, and, no attempt to thwart the judicial system, there is basis for relief”). This is the circumstance here.

Finally, despite Respondent’s contention that the initially sought extension left Appellants aware of the deadline, the clerical error itself was the reason for the delayed filing of the second Motion for Extension of Time. And, there is no “open-ended delay.” The second extension seeks 30 days from the original deadline, and this Court often grants such extensions with instructions that a third extension will not be granted without extraordinary circumstances. As a result, such additional time does not result in “open-ended delay.”

Finally, as to Respondent’s argument as to seeking reinstatement, that provision of the South Carolina Appellate Court Rules only applies, by its terms, after a dismissal. That is not applicable here, and any such issues can be dealt with within a Petition for Rehearing or Motion

to Reinstate should the Court grant Respondent's Motion to Dismiss.

CONCLUSION

Accordingly, Appellants NHC Healthcare-North Augusta, LLC; NHC-OP, LP, National Health Corporation, National Healthcare Corporation, and Bradley Morehouse respectfully request the Court deny Respondent's Motion to Dismiss. Appellants further request the Court grant their Motion for Extension of Time and permit this appeal to proceed.

Respectfully Submitted,

s/ R. Wilder Harte

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CERTIFICATE OF SERVICE

I, the undersigned, an employee of Richardson Plowden & Robinson, P.A., for Defendants, NHC Healthcare-North Augusta, LLC; NHC-OP, LP, National Health Corporation, National Healthcare Corporation, and Bradley Morehouse, do hereby certify that I have this date served the foregoing **RETURN TO MOTION TO DISMISS APPEAL** pursuant to Section (d)(1) of the Supreme Court's Order dated April 24, 2024 on the following counsel of record using the primary email addresses listed in the Attorney Information System (if applicable):

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