

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal From the South Carolina Administrative Law Court

S. Phillip Lenski, Administrative Law Judge

Docket No. 24-ALJ-17-0391-IJ

Appellate Case No. 2025-001745

South Carolina Department of
Revenue,

Respondent,

v.

Market Hall, LLC, d/b/a Soda
City Market,

Appellant.

**APPELLANT’S EXPEDITED CONSENT MOTION FOR EXTENSION OF TIME AND
FOR LEAVE TO FILE CORRECTED FINAL BRIEF OF APPELLANT AND
FINAL REPLY BRIEF OF APPELLANT**

**EXPEDITED CONSIDERATION REQUESTED – FINAL BRIEFS DUE TODAY,
SEPTEMBER 28, 2026**

Request for immediate action. Market Hall understands that both final briefs are due today, September 28, 2026. The Department consents to this motion. Market Hall respectfully requests that the Court consider the motion today and enter an express order extending the deadline while the Court considers the requested leave and October 13 filing date. Market Hall recognizes that filing this motion does not itself suspend the deadline under Rule 240(b), SCACR.

Appellant Market Hall, LLC, d/b/a Soda City Market (“Market Hall”), respectfully moves under Rules 211 and 240, SCACR, with the Consent of for (1) an extension of the stated September 28, 2026 deadline through October 13, 2026 to serve and file both its Final Brief of Appellant and

Final Reply Brief of Appellant; (2) an immediate express order extending that deadline while this motion is considered, if the Court cannot decide the motion today; and (3) leave to file corrected final versions of both briefs that depart, to the extent expressly authorized by the Court, from their respective initial briefs. Market Hall does not contend that filing this motion itself suspends the deadline.

Grounds for the motion

1. The Court's August 17, 2026, order extended the time for service of the Record on Appeal ("ROA") until September 7, 2026, and directed that final briefs be served and filed within twenty days of service of the ROA. Market Hall understands the operative deadline for its Final Brief of Appellant and Final Reply Brief of Appellant to be Monday, September 28, 2026, and seeks relief from that deadline.

2. The Department recently filed a motion to amend the ROA to make a one-page change. Market Hall consented to that requested amendment and agreed to maintain the then-existing final-brief schedule. The Court has not yet ruled on the Department's ROA motion. Market Hall does not contend that the proposed amendment, its consent, or this motion automatically extends the briefing deadline, and does not withdraw its consent to the ROA amendment.

3. After agreeing to maintain the schedule, counsel compared the proposed Final Brief and Final Reply of Appellant and the already-filed Initial Briefs with the ROA and cited authorities. The review identified erroneous or incomplete record references and material descriptions and characterizations of authorities that require more than correction of page numbers or obvious typographical errors. Some of the same arguments appear in both briefs. Counsel seeks to correct them consistently before filing either final brief; the two final briefs also require verified tables and pagination.

4. Rule 211(b), SCACR, ordinarily confines the Final Brief of Appellant and Final

Reply Brief of Appellant to the content of their respective initial briefs, except for revised ROA references, obvious typographical errors, and misspellings. Market Hall therefore seeks express leave for the further, limited corrections needed in each brief. It does not seek to add an appellate issue or record material outside the proper ROA. Market Hall will provide the Department and the Court with a comparison or change summary identifying departures beyond Rule 211(b), unless the Court directs otherwise.

5. Market Hall requests through October 13, 2026, to verify record and legal citations and prepare both corrected final briefs. It also requests that the Court permit the Department a reasonable opportunity to respond to any newly corrected substantive point in the Final Reply Brief if the Court considers that appropriate.

6. On September 27, 2026, Market Hall's counsel emailed W. Allen Myrick, Esq., and Michael Traynham, Esq., requesting the Department's consent to the extension and leave sought in this motion and providing the proposed motion for review. On September 28, 2026, Mr. Traynham responded on the Department's behalf that the Department consents to the motion. He further stated that the Department would join in requesting a reasonable opportunity to offer a sur-reply if the Court considers one appropriate based on any new substantive points raised. Market Hall joins in that conditional request.

Memorandum of authorities

Rule 211(a), SCACR sets the ordinary period for service and filing of final briefs after service of the ROA. Under Rule 211(b), SCACR, a final brief ordinarily must be identical to the initial brief except for ROA references, obvious typographical errors, and misspellings. Because some necessary corrections exceed those categories in both the opening brief and the filed initial reply, Market Hall seeks leave before incorporating the corrections in either final brief, rather than treating Rule 211(b) as authority to revise substantive content unilaterally.

Rule 240(a), (c)–(d), SCACR governs motions for extensions of time and requires a written statement of grounds, a supporting memorandum, service certification, and supporting materials when motion facts are not in the ROA. Rule 240(b) provides that filing a motion does not ordinarily stay the applicable time limit. Accordingly, Market Hall requests express order extending the stated September 28 deadline for both final briefs pending disposition of this motion and fixing October 13, 2026, as the new deadline if relief is granted. The supporting declaration addresses counsel's review, the scheduling agreement, and the present posture of the proposed ROA amendment.

Relief requested

Market Hall respectfully requests an order: (a) expressly extending the September 28, 2026 deadline for service and filing of both final briefs immediately pending consideration of this motion; (b) granting until October 13, 2026 to serve and file both a corrected Final Brief of Appellant and a corrected Final Reply Brief of Appellant; (c) granting leave for each to depart from its corresponding initial brief to the limited extent needed to correct record descriptions and treatment of authorities, beyond the ROA references and obvious typographical errors allowed by Rule 211(b), without adding new issues; and (d) permitting the Department a reasonable opportunity to offer a sur-reply if the Court considers one appropriate based on any new substantive points raised in the corrected Final Reply Brief.

Respectfully submitted,

/s/ James E. Smith, Jr.
James E. Smith, Jr., P.A.
1422 Laurel Street
Columbia, South Carolina 29205
(803) 933-9800
Counsel for Appellant

September 28, 2026
Columbia, South Carolina

Declaration of counsel in support of motion

I, James E. Smith, Jr., declare on personal knowledge:

1.- I am counsel for Market Hall in this appeal. Neither the Final Brief of Appellant nor the Final Reply Brief of Appellant has been filed as of the time I sign this declaration.

2.- I consented to the Department's recently filed motion to amend the ROA by one page and agreed to retain the original final-brief schedule. As of the time I sign this declaration, I am unaware of an order deciding that motion.

3.- After that agreement, my review of the proposed Final Brief of Appellant and the filed Initial Reply Brief against the ROA and cited authorities identified erroneous or incomplete ROA references and errors in the presentation of record material and legal authorities that require more than obvious typographical corrections. I request time to prepare and verify both final briefs and the Court's leave for any corrections outside Rule 211(b)'s ordinary allowance.

4.- On September 27, 2026, I emailed W. Allen Myrick, Esq., and Michael Traynham, Esq., seeking the Department's consent to the relief requested in this motion and attaching the proposed motion. On September 28, 2026, Mr. Traynham replied that the Department consents to the motion and would join in requesting a reasonable opportunity to offer a sur-reply if the Court considers one appropriate based on any new substantive points raised.

I declare that the foregoing is true to the best of my knowledge.

Date: September 27, 2026

/s/ James E. Smith, Jr.

James E. Smith, Jr., P.A.

1422 Laurel Street

Columbia, South Carolina 29205

(803) 933-9800

Counsel for Appellant

September 28, 2026

Columbia, South Carolina

Proof of Service

I certify that on September 28, 2026, I served this motion and its supporting declaration on W. Allen Myrick, Esq., and Michael Traynham, Esq. counsel for the South Carolina Department of Revenue, VIA AIS email address.

/s/ James E. Smith, Jr.

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SC Court of Appeals