THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

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SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Honorable Thomas W. McGee, III, Circuit Court Judge
Honorable Charles B. Simmons, Jr., Master-In-Equity

Jennifer L Hamrick and James C. Hamrick ,. . . . . Respondents

v.

Jack D. Curlee and AG First Farm Credit Bank . . . . . Defendants

Of which Jack D. Curlee is the. . . . . Appellant

C.A. NO: 23-CP-23-00052

Appellate Case NO: 2026-001612

REPLY TO RETURN TO MOTION TO DISMISS

The Respondents, timely replying to Appellant's Return to Motion to Dismiss and pursuant to Rule 240(f) SCACR, reaffirm their Motion to Dismiss the appeal of the Appellant upon the following ground:

Appellant failed to file his Return within 10 (ten) days of service of Respondents Motion to Dismiss.

Appellants never filed a previous Motion to Dismiss his appeal of the Order of November 18, 2026 [See Appellate Case Number 2026-000093].

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October 23, 2026

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Memorandum

GROUND ONE

Appellant filed his Notice of Appeal of the Order of July 10, 2026 from the Honorable Charles B. Simmons, Master-in-Equity for Greenville County with the Court of Appeals on July 17, 2026.

On July 29, 2026 Respondents file their Motion to Dismiss the Appeal and served the attorney for the Appellant on July 29, 2026.

On October 20, 2026, Appellant filed a Return to Motion to Dismiss the Appeal of the Respondents.

ANALYSIS OF RETURN TO MOTION APPLICABLE TO RULE 240(e) SCACR

Rule 240(e) SCACR clearly states any party opposing a motion shall have ten (10) days from date of service to file his return with the Clerk of Court of Appeals. Failure of a party to timely file a return may be deemed consent by that party to the relief sought in the motion.

More than ten (10) days have elapsed that required the Appellant to file his Return. From July 29, 2026, the date of service of Respondents Motion to Dismiss and October 20, 2026, the filing and date of service of Appellant's Return, it totals eighty-three (83) days.

This Court did have discretion to enlarge the time for filing a Return pursuant to Rule 240(e) SCACR.

Nevertheless, the Appellant never requested an extension to file his Return with this Court. Furthermore, this Court in its sole discretion did not give the Appellant enlargement of time to file his Return.

Appellant did not timely file his Return. It can be further reasoned that the date he did file and serve his Return cannot be interpreted as an "excusable delay," pursuant to the plain meaning of Rule 240 SCACR, being over two- and one-half months to submit a Return.

Respondents respectfully argue that they are entitled to an order granting their Motion to Dismiss.

GROUND TWO

Specifically reserving and not waiving their preceding ground to dismiss the Appeal of the Appellant, Appellant submits in his Return that he mistakenly filed a Notice of Appeal from the Order of November 18, 2025. Upon recognizing the mistake he moved to dismiss his Notice of Appeal because no Final Order had been published [See Paragraph 10 of Appellant's Return].

A careful review of Appellate Case No.: 2026-000093, involving the same parties herein and the Order of this Court filed on February 23, 2026, does not show any record that Appellant moved to dismiss his appeal of that case. The Order of November 18, 2025 was a Final Order.

The only issue subject to any appeal of Appellate Case No.: 2026-001612, arises only from the Order of July 10, 2026 should this Court deny the relief sought by the Respondents in accordance with Rule 240(e) SCACR.

For the foregoing reasons, Respondents move again that their Motion to Dismiss be granted.

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PROOF OF SERVICE

I certify that I have served the Reply to Return Motion to Dismiss and Memorandum on Appellant Jack D. Curlee by personally delivering a copy of it to his attorney of record, O.W. Bannister, at his law office at 24 Cleveland Street, Sute 100, Greenville, South Carolina on October 23, 2026.

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ATTENTION:
Jenny A. Kitchings, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

RE: Appellant Curlee v. Respondents Hamrick,
Appellant Case No.: 2026-001612

Dear Madam Clerk,

Please find enclosed the Reply of the Respondents to Appellant's Return to Motion to Dismiss, the Memorandum, and Proof of Service upon the Attorney for the Appellant.

Respectfully yours,

JAMES D. CALMES, III

JDC/zrt

Enclosure: Reply to Return Motion to Dismiss, Memorandum, & Proof of Service

James Drayton Calmes, III
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