

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Judge

Case No. 2019-CP-42-02092
Appellate Case No. 2020-001110

RECEIVED

Jan 19 2021

SC Court of Appeals

Luther Harris, Donna Harris,
Bobby Leopard and Jerry White,

Appellants,

v.

Perry W. Barbour and Southland Transportation, Co.,

Respondents.

**MOTION FOR LEAVE TO FILE OUT OF TIME
REPLY BRIEF OF APPELLANTS**

Appellants respectfully request leave to file and serve out of time the Reply Brief of Appellant in the above-mentioned case. In support of this request, Appellants state as follows:

On September 17, 2020, Appellants submitted their Initial Brief on the above-captioned appeal. Respondent filed their Initial Brief on November 13, 2020. Based on Rule 208(a)(3) of the SCACR, the deadline for filing Appellant's Reply Brief was on November 23, 2020.

Counsel for Appellant relies on the following reasons, in addition to the routine matters that counsel must attend to in daily practice to explain the delay in the filing and service of the Reply Brief.

As Appellant's counsel was of the belief Respondent has not addressed the Court's Deficiency letter, dated November 23, 2020. An inquiry as to the present status indicated a corrected copy of the Initial Brief for Respondent had been filed. That mistaken belief, in addition to addressing Federal briefs as well two (2) appeal cases, caused a failure to maintain focus.

This request is not sought for delay but so that justice may be done. Appellant prays

the lack of resulting prejudice to opposing counsel will allow the Court to grant this Motion. Therefore, Appellants respectfully request this Honorable Court to allow them to file and serve the enclosed pleadings.

Anderson, South Carolina
January 18, 2021

s/Donald L. Smith
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**FORM 7
PROOF OF SERVICE**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Judge

Case No. 2019-CP-42-02092
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Luther Harris, Donna Harris,
Bobby Leopard and Jerry White,

Appellants,

v.

Perry W. Barbour and Southland Transportation, Co.,

Respondents.

PROOF OF SERVICE

Pursuant to Supreme Court of South Carolina's Amended Order 2020-05-29-02, I am filing a copy Appellant's Motion for Leave to File Out of Time Reply Brief of Appellants, the Reply Brief of Appellants and Proof of Service of same, upon the Honorable Jenny Abbott-Kitchings, Clerk of Court of South Carolina Court of Appeals through AIS system and serving a copy of the same upon Respondents, by and through Mr. David L. Moore, Esquire, by email through the following addresses:

Ms. Jenny Abbott-Kitchings
Mr. David L. Moore, Esquire

ctappfilings@sccourts.org
DMoore@turnerpadget.com

s/Donald L. Smith
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Attorney for Appellants

Anderson, South Carolina
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FORM 8
LETTER TO THE APPEALS COURT CLERK
FILING OF MOTION FOR LEAVE TO FILE OUT OF TIME
REPLY BRIEF OF APPELLANTS AND REPLY BRIEF OF APPELLANTS

January 18, 2021

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

RECEIVED
Jan 19 2021
SC Court of Appeals

**RE: Luther Harris, Donna Harris and Bobby Leopard vs.
Perry Wendell Barbour and Southland Transportation Co.
C.A. No.: 2019-CP4202092
Appellate Case No. 2020-001110**

Dear Ms. Kitchings:

Please find enclosed the following documents for filing in the above-captioned appealed case:

1. Appellants' Motion for Leave to File Out of Time Reply Brief of Appellants;
2. Reply Brief of Appellants; and,
3. Proof of Service of same.

Sincerely,

s/Donald L. Smith

Donald L. Smith, (Bar No. 6699)

Attorney for Appellant

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cc:

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