

RECEIVED

May 23 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Jocelyn Newman, Circuit Court Judge

Appellate Case No. 2025-000221

Franklin J. Boyles,

Appellant,

vs.

C and C Masonry, Inc.,
Juneau Construction Company, LLC, and
University of South Carolina,

Respondents.

**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Respondent University of South Carolina [USC], by and through its undersigned counsel, respectfully proposes the following matter to be included in the Record on Appeal in this appeal:

1. The summons and complaint filed September 25, 2024 by the Appellant in the court of common pleas for Richland County.
2. Respondent USC's notice of motion and motion to dismiss the Appellant's claims against it under South Carolina Rule of Civil Procedure [SCRCP] 12(b)(6) filed October 31, 2024 in the court of common pleas for Richland County.
3. The Appellant's response to Respondent USC's motion to dismiss his claims and three (3) supporting exhibits filed November 18, 2024 in the court of common pleas for Richland County.
4. Additional exhibits in support of the Appellant's response to Respondent USC's motion to dismiss his claims filed December 6, 2024 in the court of common pleas for Richland County.

5. Transcript of hearing conducted February 3, 2025 in the court of common pleas by the Honorable Jocelyn Newman regarding Respondent USC's motion to dismiss the Appellant's claims against it.
6. Form 4 Order issued February 4, 2025 by the Honorable Jocelyn Newman granting Respondent USC's motion to dismiss the Appellant's claims against it and directing Respondent USC's counsel to electronically file a proposed order within 20 days.
7. Order issued February 24, 2025 by the Honorable Jocelyn Newman granting Respondent USC's motion under SCRCP 12(b)(6) to dismiss the Plaintiff's two (2) causes of action against it.

The above-listed seven (7) matters match the seven (7) matters designated by the Appellant for inclusion in the record on appeal in his March 17, 2025 filing.

Respondent USC's counsel respectfully advises the Court that he received an email on April 25, 2025 from the Court Reporter Section at South Carolina Court Administration advising him that it was unable to produce the transcript of the hearing on USC's October 31, 2024 motion to dismiss conducted by the trial court on February 3, 2025 (i.e., matter #5).

In its April 25, 2025 email, a copy of which accompanies this designation, the Court Reporter Section advised that the February 3, 2025 hearing held by the trial court was not captured on record.

Respondent USC's counsel certifies that this designation contains no matter which is irrelevant to this appeal.

RESPECTFULLY SUBMITTED:

s/Lake E. Summers

Lake E. Summers

S.C. Bar #64146

Malone, Thompson & Summers LLC

339 Heyward Street

Columbia, South Carolina 29201

(803) 413-2094 – Mobile

(803) 254-3300 – Office

summers@mtsolfirm.com

Columbia, South Carolina

May 23, 2025

**ATTORNEYS FOR THE UNIVERSITY
OF SOUTH CAROLINA**

Counsel for the Appellant:

Lola Stradford Richey, Esq.

S.C. Bar #8931

RICHEY and RICHEY, PA

Post Office Box 10916

Greenville, South Carolina 29603

From: [Transcripts](#)
To: [Lake Summers](#)
Cc: [Transcripts](#)
Subject: RE: Request for Transcript from February 3, 2025 Circuit Court Hearing
Date: Monday, April 28, 2025 9:38:33 AM

Good morning,

I wanted to clarify that during our Webex court sessions, appearances can be made in person, and the proceedings are recorded via video. In instances where a court reporter is not assigned to a judge, such as Judge Newman on this particular day, the record is maintained through the video capture on Webex.

Thank you

Court Reporter Section

From: Lake Summers <summers@mtsolawfirm.com>
Sent: Friday, April 25, 2025 4:52 PM
To: Transcripts <transcripts@sccourts.org>
Subject: RE: Request for Transcript from February 3, 2025 Circuit Court Hearing
Importance: High

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Thank you for your email.

I'm afraid there's been a misunderstanding, because the hearing conducted by Judge Newman on February 3, 2025 **was not a virtual hearing.**

Instead, **counsel appeared in person before Judge Newman at the Richland County Courthouse on February 3, 2025.**

I'm not sure how the confusion occurred, and I apologize if I somehow caused it.

Any advice or clarity you're able to provide would be greatly appreciated.

Thank you.

Very respectfully,

Lake Summers

Lake Summers
Malone, Thompson, Summers & Ott LLC
339 Heyward Street
Columbia, South Carolina 29201
(803) 413-2094 – Cell
(803) 254-3300 – Office
(803) 254-0309 – Fax
summers@mtsolfirm.com

From: Transcripts <transcripts@sccourts.org>
Sent: Friday, April 25, 2025 4:43 PM
To: Lake Summers <summers@mtsolfirm.com>
Cc: Transcripts <transcripts@sccourts.org>
Subject: RE: Request for Transcript from February 3, 2025 Circuit Court Hearing

Good afternoon,
We regret to inform you that we are unable to produce the requested transcript. The virtual hearing held by Judge Newman on February 3, 2025, was not captured on record. We apologize for any inconvenience this may cause.
Thank you
Court Reporter Section

From: Lake Summers <summers@mtsolfirm.com>
Sent: Tuesday, March 25, 2025 4:50 PM
To: Transcripts <transcripts@sccourts.org>
Subject: RE: Request for Transcript from February 3, 2025 Circuit Court Hearing

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

In response to your email, I've attached the following items:

- The Form 4 Order issued February 4, 2025 by Judge Newman referencing the hearing she conducted February 3, 2025 in the case styled as Franklin J. Boyles, et al. v. C and C Masonry, et al.; C/A No. 2024-CP-40-05809.
- Message traffic between me and Lola Richey, Esq., counsel for Franklin Boyles, from March 18, 2025 discussing her efforts to secure a copy of the transcript from the hearing conducted February 3, 2025 by Judge Newman.
- The designation of matter to be included in the record on appeal Ms. Richey filed with the Court of Appeals on March 17, 2025 in which she lists the transcript of the February 3, 2025 hearing before Judge Newman.

So, to precisely respond to your question, the hearing for which I'm seeking a transcript did not take place in front of another judge or on another date.

The hearing for which I'm seeking a transcript, as reflected by the attached items, occurred February 3, 2025 before Judge Newman in Richland County.

Please let me know what other information you need from me.

Very respectfully,

Lake Summers

*Lake Summers
Malone, Thompson, Summers & Ott LLC
339 Heyward Street
Columbia, South Carolina 29201
(803) 413-2094 – Cell
(803) 254-3300 – Office
(803) 254-0309 – Fax
summers@mtsolvlawfirm.com*

From: Transcripts <transcripts@sccourts.org>
Sent: Tuesday, March 25, 2025 4:37 PM
To: Lake Summers <summers@mtsolvlawfirm.com>
Cc: Transcripts <transcripts@sccourts.org>
Subject: RE: Request for Transcript from February 3, 2025 Circuit Court Hearing

Good afternoon

We have searched for the recording for February 3, 2025 with judge Newman and your hearing is not on the recording. Could this hearing have taken place in front of another judge or on another date? Please let us know as soon as possible.

Thank you,
Court Reporter Section

From: Lake Summers <summers@mtsolvlawfirm.com>
Sent: Tuesday, March 18, 2025 4:53 PM
To: Transcripts <transcripts@sccourts.org>
Subject: Request for Transcript from February 3, 2025 Circuit Court Hearing

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

To Whom It May Concern –

I've attached a completed PDF version of Form SCCA 800 by which I request a copy of the transcript from the motion hearing conducted February 3, 2025 in the court of common pleas for Richland County for the case of Franklin Boyles v. C and C Masonry, et al., C/A No. 2024-CP-40-05809, by the Honorable Jocelyn Newman.

I represent the University of South Carolina [USC], one of the defendants in the above-referenced case, and at the February 3, 2025 hearing Judge Newman heard – and granted – my motion to dismiss the Plaintiff's causes of action against USC.

Plaintiff Franklin Boyles, through Lola Stradford Richey, Esq., has appealed Judge Newman's ruling(s) in USC's favor to the Court of Appeals.

Please email me or call me on my cell @ 803.413.2094 if you have any questions about my transcript request or if you have any difficulties opening the attached PDF version of Form SCCA 800.

Very respectfully,

Lake Summers

*Lake Summers
Malone, Thompson, Summers & Ott LLC
339 Heyward Street
Columbia, South Carolina 29201
(803) 413-2094 – Cell
(803) 254-3300 – Office
(803) 254-0309 – Fax
summers@mtsolvlawfirm.com*

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not

read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

RECEIVED

May 23 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Jocelyn Newman, Circuit Court Judge

---

Appellate Case No. 2025-000221

---

Franklin J. Boyles,

Appellant,

vs.

C and C Masonry, Inc.,  
Juneau Construction Company, LLC, and  
University of South Carolina,

Respondents.

---

**PROOF OF SERVICE**

---

I certify that I have served a copy of **RESPONDENT UNIVERSITY OF SOUTH CAROLINA'S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL** upon the above-named Appellant by email to his counsel and other concerned counsel at the following addresses:

Lola Stradford Richey, Esq.  
S.C. Bar #8931  
lawfirm@richeyandrichey.com

RICHEY and RICHEY, PA  
Post Office Box 10916  
Greenville, South Carolina 29603  
(864) 467-0503 (Office)  
*Counsel for the Appellant*

Molly E. Flynn, Esq.  
S.C. Bar #100927  
mflynn@collinsandlacy.com

Christian Stegmaier, Esq.  
S.C. Bar #68648  
cstegmaier@collinsandlacy.com

Stephanie Roberts  
sroberts@collinsandlacy.com

Candace M. Oxner  
coxner@collinsandlacy.com

COLLINS & LACY, P.C.  
Post Office Box 12487  
Columbia, South Carolina 29211  
(803) 256-2660 – Office

*Counsel for Juneau Construction Co., LLC*

R. Trippett Boineau, III, Esq.  
S.C. Bar #73769  
Trippett.Boineau@mgclaw.com

Hugh M. Gallagher, IV, Esq.  
S.C. Bar #105222  
Hugh.Gallagher@mgclaw.com

Liz Davison  
liz.davison@mgclaw.com

Alisha Tabor  
Alisha.tabor@mgclaw.com

MCANGUS GOUDELOCK & COURIE, LLC  
1320 Main Street, 10th Floor  
Columbia, South Carolina 29201  
(803) 779-2300 – Office

*Counsel for C & C Masonry, Inc.*

**RESPECTFULLY SUBMITTED:**

***s/Lake E. Summers***

Lake E. Summers  
S.C. Bar #64146

**Malone, Thompson & Summers LLC**

339 Heyward Street  
Columbia, South Carolina 29201  
(803) 413-2094 – Mobile  
(803) 254-3300 – Office  
summers@mtsolvlawfirm.com

**ATTORNEYS FOR THE UNIVERSITY  
OF SOUTH CAROLINA**

Columbia, South Carolina  
May 23, 2025