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Aug 13 2025

SC Court of Appeals

IN THE COURT OF APPEALS

STATE OF SOUTH CAROLINA

Christopher Saunders Lawton, Appellant,

v.

Discover Bank, Respondent.

Appellate Case No. 2025-000833

NOTICE OF SUPPLEMENTAL AUTHORITY

Date: August 13, 2025

Purpose

Appellant submits this Notice under **Rule 208(d), SCACR**, to aid the Court with concise authorities directly tied to the **existing record**. Each point is presented in the format: **Defect** → **Transcript Excerpt (unaltered)** → **Key Portion** → **Authority**, to facilitate efficient review and to **preserve** all issues, including constitutional questions, for further appellate consideration.

Preamble

Appearing *in propria persona*, Appellant respectfully highlights **foundational procedural defects** that go to the admissibility of the evidence underlying summary judgment and the **fairness of the proceedings**, and separately preserves **constitutional issues**—including **Article I, § 10 (constitutional money)** and the **historical irregularities in the Fourteenth Amendment’s ratification** during Reconstruction—for higher review. The Court can reverse on **narrow procedural grounds**; constitutional issues are **fully preserved**.

Procedural Defects & Legal Issues – Quick Reference Roadmap

1. Affidavit Defect – Lack of Personal Knowledge

Transcript: p. 14, ll. 3–9 Appendix: A–1

Why it matters: **Rule 56(e), SCRCP** requires personal knowledge; conclusory/hearsay affidavits cannot support SJ.

2. Improper Counsel Appearance – Non-Affiant Attorney

Transcript: p. 2, ll. 5–12 Appendix: A–2

Why it matters: Affiant never appeared for cross-examination; substitute counsel's argument is not evidence.

3. Summary Judgment Granted Despite Material Disputes

Transcript: p. 22, ll. 15–25; p. 23, ll. 1–5 **Appendix:** A–3

Why it matters: Rule 56(c) forbids SJ where **genuine issues of material fact** remain.

4. Lack of Standing – Failure to Prove Assignment Chain

Transcript: p. 17, ll. 7–20 **Appendix:** A–4

Why it matters: No admissible proof of assignment = **no standing**.

5. Constitutional Due Process Violations

Transcript: p. 25, ll. 8–17 **Appendix:** A–5

Why it matters: No meaningful opportunity to confront unreliable evidence.

6. Historical Defect – Questionable Ratification of the Fourteenth Amendment

Appendix: A–6

Why it matters: Preserves **Article V** and Reconstruction-era concerns as a constitutional backdrop.

(Added, not removing any above)

7. Rule 11 / Ethics – Reliance on Unreliable Submissions

Transcript/Record: Affiant absent; no custodian; uncertified records

Why it matters: Dispositive relief sought on **defective proof** against a self-represented party.

PART I — PROCEDURAL DEFECTS

DEFECT #1 — Affiant did not appear; counsel tied to the affidavit (Mr. Myers) did not appear; no competent witness with personal knowledge.

Transcript (Appearances): “**FOR THE PLAINTIFF: ELIZABETH WRIGHT, ESQUIRE.**” (Tr. p. 2, ll. 5–12.)

Key Portion: No affiant; no foundation witness; substitute counsel argued without personal knowledge.

Authority: Rule 56(e), SCRPC (personal knowledge; competency); SCRE 803(6), 902(11) (business records require custodian/qualified witness or proper certification); **Baughman v. AT&T**, 306 S.C. 101, 410 S.E.2d 537 (1991) (**inadmissible/conclusory submissions cannot support SJ**); **Celotex Corp. v. Catrett**, 477 U.S. 317 (1986) (**movant must first present admissible evidence to shift burden**).

DEFECT #2 — Lack of authentication/foundation for business records; attorney argument treated as evidence.

Transcript: (documents argued; no custodian or 902(11) certification offered over foundation objections) (Tr. p. 14, ll. 3–9.)

Key Portion: No custodian; no 902(11) certification; records admitted without foundation.

Authority: SCRE 803(6), 902(11); Roche v. Young Bros., Inc., 332 S.C. 75, 504 S.E.2d 311 (1998) (authentication prerequisite to admissibility); Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986) (inadmissible materials cannot carry SJ).

DEFECT #3 — Even if Mr. Myers had appeared, the evidentiary defect remains fatal.

Transcript cross-tie: the defect is the missing foundation/authentication—not merely who argued.

Key Portion: Presence cannot convert hearsay or supply a missing custodian predicate.

Authority: Rule 56(e); SCRE 803(6), 902(11); Baughman, 306 S.C. at 109 (SJ requires competent, admissible proof).

DEFECT #4 — Genuine disputes of material fact remained (RFAs/service; record reliability).

Transcript: “I filed it with the Court as well as a copy.” Court: issue taken “under advisement.”

Respondent: non-receipt. (Tr. p. 22, ll. 15–25; p. 23, ll. 1–5.)

Key Portion: Competing factual accounts = genuine disputes.

Authority: Rule 56(c), SCRCP; Anderson, 477 U.S. at 255 (credibility/weighing are for trial, not SJ).

DEFECT #5 — Lack of standing: failure to prove assignment/ownership by admissible evidence.

Transcript: challenge to ownership/assignment chain and authentication. (Tr. p. 17, ll. 7–20.)

Key Portion: No admissible assignment proof = no standing.

Authority: BAC Home Loans Servicing, LP v. Kinder, 398 S.C. 619, 731 S.E.2d 547 (Ct. App. 2012) (plaintiff must prove entitlement to enforce); Fleming v. Rose, 350 S.C. 488, 567 S.E.2d 857 (2002) (standing is jurisdictional).

DEFECT #6 — Due process: no meaningful opportunity to confront/test unreliable evidence.

Transcript: “I was non-afforded adequate notice of a meaningful opportunity to contest this debt” (Tr. p. 25, ll. 8–17.)

Key Portion: Affiant/custodian absent; unauthenticated documents accepted.

Authority: Mathews v. Eldridge, 424 U.S. 319, 333 (1976) (procedures must reduce risk of

erroneous deprivation); S.C. due-process principles parallel *Mathews*; **Mullane v. Central Hanover**, 339 U.S. 306 (1950) (meaningful opportunity to present objections).

DEFECT #7 — Rule 11 / Professional Responsibility: dispositive relief pressed on facially unreliable submissions.

Record context: uncertified records; affiant absent; no custodian testimony.

Key Portion: Rule 11 certification and RPC 3.3, 4.1 duties were implicated where dispositive relief was sought against a self-represented party on **defective proof**.

Authority: Rule 11, SCRCP; RPC 3.3 (candor); RPC 4.1 (truthfulness) (Rule 407, SCACR).

PART II — CONSTITUTIONAL ISSUES (Preserved)

A. Procedural Due Process (civil)

Transcript preservation: Appellant objected to the lack of a meaningful opportunity to confront/test the evidence and sought a jury on disputed facts.

Authority: *Mathews*, 424 U.S. at 333; *Mullane*, 339 U.S. at 314–15.

Application: Accepting unauthenticated records without a foundation witness **fails Mathews** and undermines adversarial testing.

B. Constitutional Money — Article I, § 10 (Preserved)

Record: Appellant challenged the constitutional framework for enforcing private credit obligations vis-à-vis tender.

Authority/Preservation: Federal legal-tender power is recognized (e.g., *Knox v. Lee*, 79 U.S. (12 Wall.) 457 (1871); *Juilliard v. Greenman*, 110 U.S. 421 (1884)), but Appellant **preserves an as-applied** challenge within state-court enforcement contexts.

Application: The Court may resolve on **procedural grounds**, while **preserving** this question for higher review.

C. Fourteenth Amendment Ratification — (Historical Due-Process Concern; Preserved)

Record: Appellant raised that Southern States were under **military governance** and ratification was a condition of readmission during Reconstruction.

Summary: The **Reconstruction Acts of 1867** placed Southern states under military rule; legislatures were **reorganized** prior to ratification votes. Congressional debates reflect **coercive conditions**. While courts often treat Article V ratification disputes as **political questions** (*Coleman v. Miller*, 307 U.S.

433 (1939)), these **historical irregularities** are preserved here as part of a broader **due-process** challenge to the assumptions used below.

Application: The Court can reverse on narrow evidentiary grounds; the **Article V / Fourteenth Amendment** issues remain **preserved** for further review.

Conclusion & Relief Requested

The judgment rests on **inadmissible evidence** and **procedural nullities**: no affiant; no custodian; no certification; **genuine disputes** unresolved; and due-process safeguards not honored. **Even if** Mr. Myers had appeared, **the foundation/authentication defects remain fatal** to summary judgment under **Rule 56** and **SCRE 803(6)/902(11)**.

Relief: Appellant respectfully requests that this Court **reverse** the summary judgment or **vacate and remand** for proceedings consistent with the Rules of Evidence and due process. In all events, the **constitutional issues** noted herein are **preserved** for higher review.

Certificate of Service

I certify that on **August 13, 2025**, I filed this **Notice of Supplemental Authority** with the South Carolina Court of Appeals by email to **ctappfilings@sccourts.org**, and served a copy via **USPS Certified Mail** to:

Jerry T. Myers, Esquire

c/o Discover Bank

PO Box 176010

Raleigh, NC 27619-6010

USPS Certified Tracking No.: 9589 0710 5270 3112 7L18 04

Respectfully submitted,

/s/ **Christopher Saunders Lawton**

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Appearing *in propria persona*

APPENDIX (Integrated – new page)

Purpose of Appendix

These materials are provided to **speed verification** of the defects and authorities cited. Each item is **cross-referenced** in the main text.

A-1 — Transcript (Affiant/Counsel Absence; Appearances)

Supports DEFECT #1: *“FOR THE PLAINTIFF: ELIZABETH WRIGHT, ESQUIRE.”*

(Affiant/counsel named on affidavit, **Mr. Myers**, did **not** appear.)

Pinpoint: p. 2, ll. 5–12

A-2 — Transcript (No Custodian/No 902(11) Certification)

Supports DEFECT #2: Argument relied on documents; **no custodian** or **Rule 902(11)** certification offered.

Pinpoint: p. 14, ll. 3–9 (foundation challenge context)

A-3 — Transcript (Genuine Disputes; RFAs/Service)

Supports DEFECT #4: Appellant: *“I filed it with the Court as well as a copy.”* Court took issue **“under advisement.”** Respondent asserted non-receipt.

Pinpoints: p. 22, ll. 15–25; p. 23, ll. 1–5

A-4 — Transcript (Standing/Assignment Challenge)

Supports Lack of Standing: Challenge to ownership/assignment chain and authentication.

Pinpoint: p. 17, ll. 7–20

A-5 — Transcript (Due-Process Preservation)

Supports DEFECT #6: *“I was non-afforded adequate notice of a meaningful opportunity to contest this debt ...”*

Pinpoint: p. 25, ll. 8–17

A-6 — Constitutional & Historical Materials

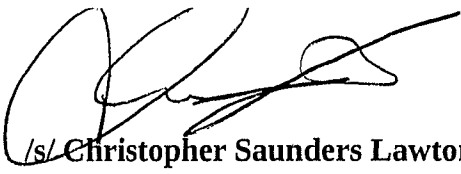
- **Reconstruction Acts of 1867** (selected sections).
- **Congressional Globe/Record** excerpts (39th Cong., 1st & 2nd Sess.) reflecting **military governance** and **reorganized legislatures** prior to ratification.
- **U.S. Const. art. I, § 10** (money/tender) and **Amend. XIV** (text).

Pinpoint Index (Quick Reference)

- **Defect #1:** Appearances (Affiant/counsel absence) → **A-1**; Tr. p. 2, ll. 5–12
 - **Defect #2:** No custodian/902(11) → **A-2**; Tr. p. 14, ll. 3–9
 - **Defect #3:** *Even if present*, foundation still missing → **A-2**; Rules in main text
 - **Defect #4:** Genuine disputes (RFAs/Service) → **A-3**; Tr. p. 22, ll. 15–25; p. 23, ll. 1–5
 - **Defect #5:** Standing (assignment chain) → **A-4**; Tr. p. 17, ll. 7–20
 - **Defect #6:** Due process preservation → **A-5**; Tr. p. 25, ll. 8–17
 - **Historical materials:** **A-6** (Reconstruction Acts; Congressional Record; Art. I, § 10; Amend. XIV)
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Notes on Citations (inline, clean style)

- **Rule 56(c), (e), SCRPC** — burden/prima facie showing; personal knowledge.
 - **SCRE 803(6), 902(11)** — business-records predicate/self-authentication.
 - **Baughman v. AT&T**, 306 S.C. 101, 410 S.E.2d 537 (1991) — **inadmissible/conclusory showings cannot support SJ.**
 - **Celotex v. Catrett**, 477 U.S. 317 (1986) — **movant must produce admissible evidence to shift burden.**
 - **Anderson v. Liberty Lobby**, 477 U.S. 242 (1986) — **no SJ where genuine disputes; inadmissible materials insufficient.**
 - **Mathews v. Eldridge**, 424 U.S. 319 (1976) — **due-process framework.**
 - **Mullane v. Central Hanover**, 339 U.S. 306 (1950) — **meaningful opportunity to be heard.**
 - **Roche v. Young Bros.**, 332 S.C. 75, 504 S.E.2d 311 (1998) — **authentication prerequisite.**
 - **BAC Home Loans v. Kinder**, 398 S.C. 619, 731 S.E.2d 547 (Ct. App. 2012) — **standing/entitlement to enforce.**
 - **Fleming v. Rose**, 350 S.C. 488, 567 S.E.2d 857 (2002) — **standing is jurisdictional.**
 - **Knox v. Lee**, 79 U.S. (12 Wall.) 457 (1871); **Juilliard v. Greenman**, 110 U.S. 421 (1884) — **legal-tender authority** (preservation context).
 - **Coleman v. Miller**, 307 U.S. 433 (1939) — **ratification disputes often political question** (preservation note).
 - **Rule 11, SCRPC; RPC 3.3 & 4.1** (Rule 407, SCACR) — **candor/truthfulness; evidentiary support.**
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/s/ Christopher Saunders Lawton

Date: August 13, 2025